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BULLETIN

FAUQUIER HISTORICAL SOCIETY



WARRENTON, VIRGINIA

PUBLISHED AUGUST, 1921

OLD DOMINION PRESS, INC., PRINTERS
RICHMOND, VA.

ANNOUNCEMENT

The Lampeter Historical Society was organized in 1911 for the purpose of promoting historical research. During the World War nothing was accomplished, but since then a certain amount of work has been done resulting in several papers and other matter which the Society believes should be published. The issue of this number has, therefore, been decided upon, and it is hoped that the receipt of additional material will make possible from time to time other publications of a similar character.

FOUNDATION COMMITTEE

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Wrexham, Yn.



RICHARD HENRY LEE

From
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FAUQUIER'S ABORIGINES

(Published in Tyler's Quarterly Historical and Genealogical Magazine July, 1920.)

The expedition under Captain Christopher Newport which landed on the banks of the James River in May 1607, included, among other adventurous spirits, a remarkable character who played a conspicuous part in the fortunes of the young colony and, in his dealings with the Indians, exhibited a sagacity and resourcefulness that proved of invaluable service to his companions. This person was Captain John Smith, a soldier of fortune who had fought in the Netherlands against Spain, had commanded a troop of horse in the armies of Rudolph II of Styria against the Turks, and, in the service of Transylvania during the siege of Regal, had successively slain three Turkish champions in single combat. Later taken prisoner at the battle of Rosenthurm he was sold into slavery and, although for a while befriended by a lady of Constantinople, he was subsequently sent to Asia Minor where, after enduring many hardships, he killed the prince in whose service he was held, escaped into Russia and finally made his way back to England in time to join Newport's expedition.

It is to be supposed that such adventures had developed in Smith a quickness of wit in emergencies and given him a certain facility in dealing with strange enemies that stood him in good stead in his encounters with the North American savages. Certain it is, however, that, to his intelligence and adroitness as well as to the boldness with which he pursued his explorations, the colonists owed their first general knowledge of the geography of their territory and we are indebted for much of what is known of the location of the aboriginal tribes.

His exploits in Virginia began soon after the landing at Jamestown, when with a party headed by Newport he sailed up the James River as far as the Algonquian village known to the colonists as "Powhatan". He next attempted the exploration of the Chickahominy but fell into the hands of Opekan-kano and was saved from death by the intercession of Pocahontas, a daughter of Powhatan, the chief of the tribe. Early in the summer of 1608 he undertook another exploration, in Chesapeake Bay this time, and in August of the same year, with twelve men and an Indian guide, ascended the Rappahannock.

On this expedition having progressed as far as it was possible by boat, Smith's party landed, presumably near the present site of Falmouth, and scattered to examine the country. While in this position they were attacked by local Indians who, however, were driven off after a short skirmish, one of their number, who had been wounded, falling into the hands of Smith's men. From this savage they learned through their interpreter, a Powhatan named Mosco, that the band by which they had been attacked belonged to a large hunting party of Manahoacs in which several tribes were represented, and that this party was at the time established at Mahaskahod, a hunting camp nearby on the border line between the Manahoacs and their enemies, the Powhatans. Smith treated his prisoner kindly and through him soon satisfied the Manahoacs of his friendly intentions and subsequently obtained from them a good deal of information concerning the tribes and territory of what, he then learned, was a confederacy. His informant also told him of the location of the various tribes of this confederacy, of who their enemies were and of the neighboring Indians who were friendly to them.

The data thus secured was used in his map of Virginia (1612), and to this map and his writings, we owe what information we have of the aborigines of this part of the state. Smith places a cross on his map at the point on the south bank of the Rappahannock where he landed in 1608, and in his "signification" of such marks states that "to the crosses hath bin discovered—what beyond is by relation". He then maps the

country northwest to the mountains distant about 10 leagues, or $34\frac{1}{2}$ miles, from his landing place, and assigns the territory thus covered to the Manahoacs, comprehending under this name the several tribes forming the Manahoac Confederacy. He also locates a number of these tribes, placing the Hassinunga in the forks of the river which appear comparatively close to the mountains and therefore may be assumed to have been formed by the junction of the Thornton River with the North Fork, or Hedgman's River. This theory would assign the Hassinungas to the eastern border of what is now Culpeper County and would give the Tanxnitania, whom Smith places east of the North Fork, to Fauquier. Smith in his "General Historie of Virginia, New England and the Summer Isles", mentions the Whonkentias as another tribe of the Manahoac Confederacy living "upon the head of the river Tappahannock" and these people by some authorities have also been assigned to Fauquier.

Our first knowledge of the territory of Fauquier therefore comes as a result of Smith's discoveries in 1608, although neither he nor any member of his party actually set foot on its soil. The general accuracy of his statements, however, and the skill with which he pieced together the information he obtained from the natives, can be judged, in this case, by the fact that in drawing his map of the headwaters of the Rappahannock "by relation", he placed the forks of the river 6 leagues, or about 21 miles, above the falls, while the actual distance as the crow flies is about 26 miles, certainly a shrewd estimate.

After Smith's explorations there is no record of the upper Rappahannock region being visited by any white man until the year 1670, when John Lederer, a German traveller, undertook an expedition to the mountains. His party, consisting of himself, "Col. Catlett of Virginia", "nine English horse" and five Indians on foot, left the house of one Robert Talifer, situated on the south bank of the Rappahannock, August 20th, and that night reached the falls. The next day crossing the river above the falls they entered what is now Stafford County and following the north bank journeyed through the lower edge of

Fauquier passing the North Fork into Culpeper at some such place as Field's Ford. Lederer travelled thence through Culpeper and Rappahannock Counties and reached the mountains on the 26th.¹ The territory included in the present boundaries of Fauquier County, therefore, although mapped by Smith more than half a century before, was first entered by white men on August 21st, 1670.

Lederer makes no mention of having encountered any Indians on this journey but thus describes the country through which he passed:

"We travelled thorow the Savanae amongst vast herds of red and fallow deer which stood gazing at us; and a little after, we came to the Promontories or spurs of the Apalataean-mountains.

These Savanae are low grounds at the foot of the Apalataeans, which all the winter, spring, and part of the summer, lie under snow or water, when the snow is dissolved, which falls down from the mountains commonly about the beginning of June; and then their verdure is wonderful pleasant to the eye, especially of such as having travelled through the shade of the vast forest, come out of a melacholy darkness of a sudden, into a clear and open skie. To heighten the beauty of these parts, the first springs of most of those great rivers which run into the Atlantick ocean, or Cheseapeack bay, do here break out, and in various branches interlace the flowry meads, whose luxurious herbage invites numerous herds of red deer (for their unusual largeness improperly termed elks by ignorant people) to feed."

¹ The Discoveries of John Lederer, in Three Several Marches from Virginia, to the West of Carolina, and other parts of the Continent, Begun in March 1669, and ended in September 1670. London, 1672; reprinted Rochester, N. Y., 1902.

The Manahoacs, as well as their allies the Monacans, were, according to Mooney, of Siouan stock. His theory is that the prehistoric home of the Siouan race was not on the prairies of the west but among the western foothills of the Alleghany Mountains, and that these people were forced westward along the Ohio, or eastward over the mountains, by the pressure of hostile tribes. Hall, holding the same opinion as to the cradle-land of the stock, assumes that they followed the buffalo westward, but Mooney points out in contravention of this theory that the buffalo did not disappear from the east until the end of the eighteenth century and at that time the great body of the Sioux had been established on the Mississippi and Missouri for several hundred years. Whatever the cause of the early separation may have been, however, tribes of this stock occupied that portion of Virginia between the falls of the rivers and the Blue Ridge in 1608. The Monacan Confederacy at that time was established on the headwaters of the James, while the Manahoacs lived on the upper reaches of the Rappahannock and the country northward to the Potomac. The Monacans and the Manahoacs were in alliance and constantly at war with the Powhatans, a confederacy occupying the country from the falls to the coast, and all of these tribes were in never-ending dread of the Massawomek, the name by which the Iroquois beyond the mountains were known to the Algonquian and Siouan tribes of Virginia and, as Smith says, were regarded by them as their "most mortall enemies".

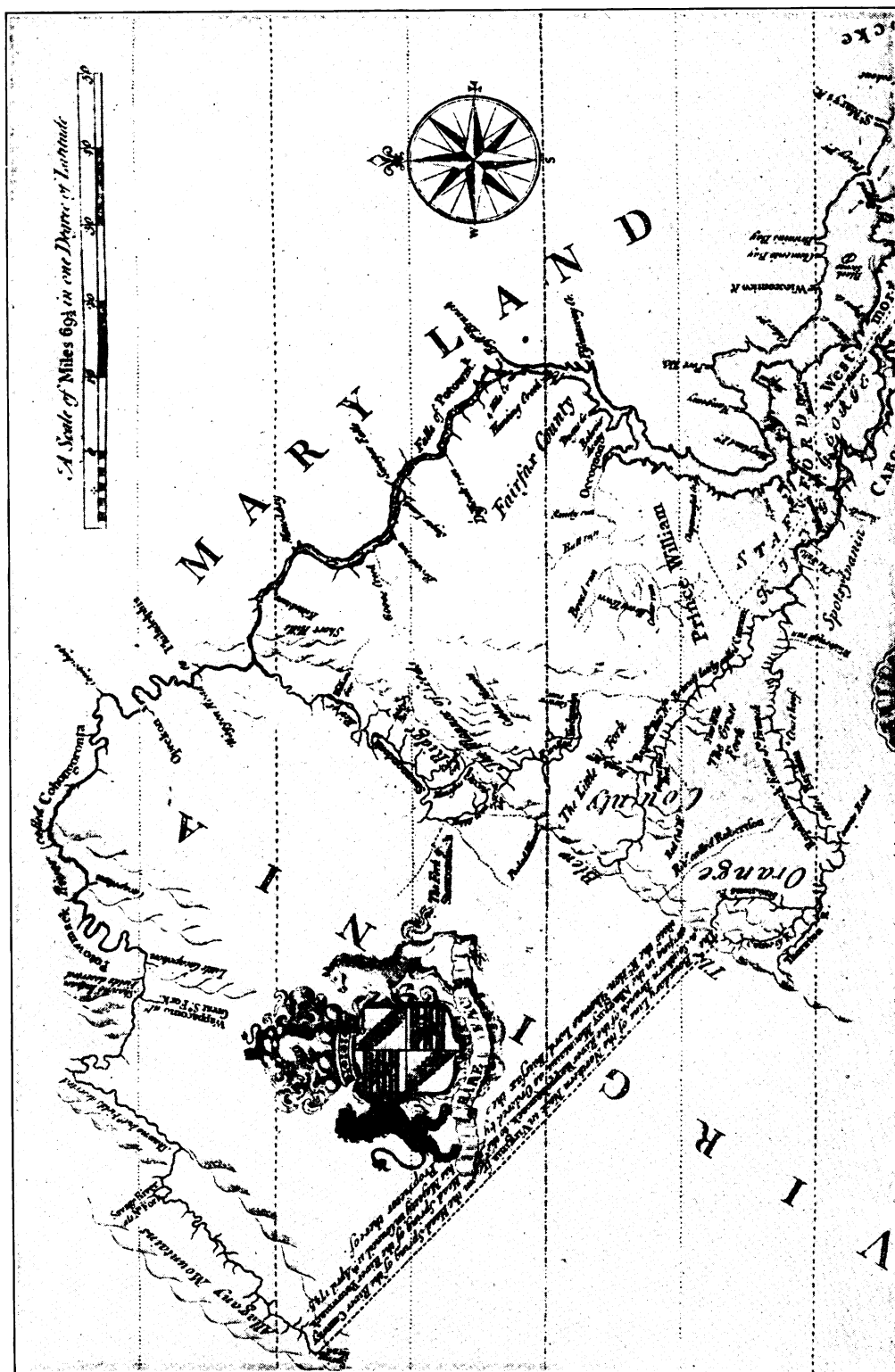
The tribes composing the Manahoac Confederacy in 1608 were eight, as named by Smith, and several others. Those which he mentions, with the locations attributed to them by Jefferson (evidently on the basis of Smith's map), were:

- Manahoac—Stafford and Spottsylvania
- Tanxnitania—Fauquier
- Shackaconia—Spottsylvania
- Ontponea—Orange
- Tegninateo—Culpeper
- Stegaraki—Orange
- Whonkenticia—Fauquier
- Hassinunga—Culpeper

Smith found the Manahoac (Alonquian: "They are very merry") to be "very barbarous, living for the most part of wild beasts and fruit". Their country was heavily timbered and abounded in game, while the numerous streams afforded a variety of fish. It is doubtful whether they practised agriculture to any great extent, although on Lederer's testimony they grew corn and had done so for a great many years. In 1669 travelling from the falls of the James River southwestward, he states that the country between the falls of the rivers and the mountains was formerly owned by the "Tacci" or "Dogi", who were then extinct and their place occupied by the Managog (Manahoac), Monakin (Monacan) and other Siouan tribes, which he names. He also states that the ancient inhabitants of the region were far more rude than the recent occupants and were taught by the latter how to plant corn and instructed by them in its use.²

Of the disappearance of the Indians we know little. That the Manahoacs were unable to maintain themselves against the attacks of their more powerful enemies seems very probable, but whether they succumbed to an Iroquois invasion prior to 1675, as Mooney believes, is somewhat doubtful. It is more likely that their bands or tribes, depleted by wars, gradually dispersed and were absorbed by friendly tribes with whom they took refuge. According to Mooney, however, at the beginning of the eighteenth century the Stegaraki of Orange County alone of all the Manahoac tribes remained, while we know that at that time the settlement of Fauquier by the white men began.

² Lederer describes the Piedmont section of Virginia at this time "as a pleasant and fruitful country, with open spaces clear of timber and abounding in game".



THE NORTHERN NECK OF VIRGINIA
SHOWING WESTERN PORTION OF THE SURVEY OF 1736-1737

NORTHERN NECK LANDS

BY H. C. GROOME.

COLONIAL LAND TENURE.

The Virginia Company, through which the first settlement in Virginia was effected, was organized for purposes of exploration and trade and under its first charter (1606) governmental as well as commercial and territorial control was exercised by the Crown through a council, appointed by the King, which sat in London.¹ In this charter "The king agreed that he would grant by patent, to such persons and for such estates as its [the Virginia Company's] council should appoint, all the lands within the territory granted by the charter, to be held of the crown as of the Manor of East Greenwich in Kent, in *free and common socage*".²

Socage³ tenure, thus established by the first charter, was the tenure under which land was held in Virginia throughout the entire colonial period. It was the form of freehold common in England at the time, into which all military tenures were subsequently commuted.⁴ According to a maxim of English law, the sovereign, personifying the state, "was the supreme lord of all the land and everyone held under him as tenant."⁵ The feudal idea was further perpetuated in the theory that the tenant's right and title to his land was de-

¹ Kingsbury, *Records Va. Co.* I, p. 19.

² *Rev. Code*, 1819, II, p. 333.

³ The term *socage* is held by some authorities to have been derived from Old English *soc*, signifying liberty or privilege, while others attribute its derivation to the Latin *socus*, a ploughshare, implying the render, in this form of tenure, of agricultural service only.

⁴ Littleton, *Enc. Brit.* XVI, p. 794.

⁵ *Tenure*, *Enc. Brit.* XXVI, p. 636.

965.111...

pendent on the performance of certain duties to his landlord and so long as these duties, or services, were faithfully discharged the tenant and his heirs "held the fief as his property, practically and in relation to all under tenants, as if he were the owner".⁶ The service was honorable in free socage as opposed to villeinage, and certain, as distinguished from knight-service in which the obligation was indefinite. It consisted of sworn or implied fealty to the landlord and the payment of a small annual rent, called quit rent, by which the tenant became free and quit from all other services. In Virginia, titles to land were descendable fee titles, absolute in the grantee, and subject only to the payment of this rent which was reserved in the patent and which, if not paid within a certain period,⁷ gave the grantor the right to resume possession of the land as in the case of a leasehold.

The grantees under the first charter of the Company, therefore, held their lands as if free tenants of a royal manor with the sovereign as their direct overlord.

Under the charter of 1609, however, an entirely different status was created. The Company was incorporated and invested not only with the power to grant land but with the full rights of government as well. Virginia was thus transformed into a proprietary province with a commercial company as its overlord.⁸ The Company was "authorized and required to distribute the lands under its common seal, from time to time, among the adventurers and planters",⁹ who held under it as under a mesne lord, although the tenure was the same as in the case of grants under the previous charter.

When the charters of the Company were finally dissolved in 1624, all its rights and powers were resumed by the Crown.¹⁰ What was in effect a royal government was then established, consisting of a governor and council appointed by the King

⁶ *Feudalism*, Enc. Brit. X, p. 300.

⁷ This period was two years in the Northern Neck and three years in other parts of the colony.

⁸ Kingsbury, *Records Va. Co.* I, p. 22.

⁹ *Rev. Code*, 1819, II, p. 333.

¹⁰ *Ibid.*

and an assembly elected by the people. Lands were now granted by the colonial government, the Governor being "by his sacred Majestie's instruction, authorized by and with the consent of his Majestie's Council of Virginia to grant by patent, lands to all adventurers and planters", such lands to be held "of his Majestie in free and common socage under the annual rent of one shilling for every fifty acres".¹¹ The direct overlordship of the sovereign was thus re-established, the Governor making grants of land and collecting fee rents as agent of the Crown.¹²

The outcome in the colony of these changes in charter and administration was a growing demand on the part of the people for greater freedom and more popular institutions. This movement, however, found no favor with James, whose disposition was to enforce the royal prerogative with little regard to the rights and interests of the colonists. The Virginia Company, on the other hand, under the influence of Sir Edwin Sandys and his supporters, adopted a more liberal policy and eventually under the charter of 1612, granted the colony representative government.¹³ On the dissolution of the Company this privilege was not at first renewed, but Charles I, influenced by the favorable reports of Sir Francis Wyatt, then Governor, finally yielded to the wishes of the people and the right of representation was restored.¹⁴ Under the Parliament, the House of Burgesses, in which the representatives sat, became the governing body of the colony and Virginia was at that time to all intents and purposes a republic.¹⁵ Emancipation from court influence having thus been achieved and a substantial measure of independence obtained,

¹¹ *Hening II*, p. 320.

¹² The collection of these rents eventually fell into disuse and on a rumor that the Privy Council intended not only to enforce their payment in future but to demand a settlement for the accumulated arrears, the Assembly, in 1679, forwarded a petition asking relief from "this great burden". At this time an Act providing for a Public Revenue was before the House and on its passage these claims were allowed to lapse. (Wertenbaker, *Va. Under the Stuarts*, p. 230.)

¹³ *Ibid.*, pp. 34-5.

¹⁴ *Ibid.*, p. 63.

¹⁵ *Ibid.*, p. 102.

it can be imagined with what indignation and chagrin the colonists learned that the King on his restoration had granted a considerable part of their territory to certain cavaliers, to be held by them as proprietors under the Crown with all the rights and privileges of manorial lords.

NORTHERN NECK CHARTERS

Charles II, after the death of his father, assumed the royal title and was proclaimed King in Scotland and in some parts of Ireland early in 1648/9¹. At St. Germain's, on September 18th of the same year, he made a grant of land in America to a small party of his adherents as a reward for faithful service and in compensation for their forfeited estates in England.

The territory included in this charter is described as "bounded within the heads of the rivers Rappahannock and Quirriough or Potowmac river, the courses of the said rivers, as they are commonly called and known by the inhabitants, and descriptions of those parts, and Chesapeake bay, together with the rivers themselves and all the islands within the banks of those rivers". This was the Northern Neck of Virginia which had, as early as 1639, attracted the attention of the Somers Islands Company as a convenient outlet for the overflowing population of the Bermudas.² The grantees under the charter now issued were Ralph Lord Hopton, Henry Lord Jermyn (afterwards Henry Jermyn, Earl of St. Albans), John Lord Culpeper, Sir John Berkeley (afterwards John Lord Berkeley of Stratton), Sir William Morton, described as one of the justices of the Court of King's Bench, Sir Dudley

¹ *Charles II*, Enc. Brit. V, p. 912.

His succession was acknowledged in Virginia by an act of Assembly passed October 10, 1649, which provided, "That what persons soever shall by words or speeches endeavor to insinuate any doubt, scruple or question of or concerning the undoubted and inherent right of his Majesty that now is to the colony of Virginia, and all other his majesties dominions and countreyes as King and Supream Gouvernour, such words and speeches shall be adjudged high treason". (*Hening* I, p. 358.)

² *Va. Mag.* XII, pp. 395-6.

Wyatt and Thomas Culpeper,³ and although the grant remained without force until after the Restoration, it was renewed by Charles, August 3, 1663, and the patentees sent out agents to establish their possession of the property. The agents, however, encountered opposition both from the Governor and the people⁴ and on the proprietors appealing to the King, a new charter was issued May 8, 1669, which, after reciting the death of Ralph Lord Hopton, John Lord Culpeper, Sir Dudley Wyatt and Thomas Culpeper, and the sale by Lord Hopton, previous to his death, of his interest in the property to John Trethewy, regranted the territory to Henry Jermyn, Earl of St. Albans, John Lord Berkeley of Stratton, Sir William Morton and John Trethewy.⁵

At this time the settlement of the Northern Neck was progressing steadily. The Indian district Chickacoan had become Northumberland County, Lancaster had been formed from Northumberland and York and Old Rappahannock from Lancaster, while Westmoreland on the Potomac side, had been created from Northumberland, and Stafford, in turn, from Westmoreland.

It was not over a wilderness, therefore, that the proprietors under the new charter were invested "with power to divide the said tract or territory of land into counties, hundreds, parishes, tithings, townships, hamlets and boroughs, and to erect and build cities, towns, parish churches, colleges, chapels, free schools, alms houses and houses of correction, and to endow the same, at their free wills and pleasures; and [the King] did appoint them full and perpetual patrons of all such churches so to be built and endowed, with power of electing, nominating and presenting, any fit person to the office and place of master of any college, or schoolmaster of any school so to be founded and endowed; with power also to divide any part or parcels of the said tract or territory, or portion of lands,

³ *Rev. Code*, 1819, I, p. 343. The name Culpeper was also spelled "Colepeper". Thomas Culpeper was the first cousin of John Lord Culpeper and the father of Alexander Culpeper.

⁴ *W. & M. Quarterly* VI, pp. 222-6.

⁵ *Rev. Code*, 1819, I, p. 344.

into manors, and to call the same after their own or any of their names, or by other name or names whatsoever, and within the same to hold a court, in the nature of a court baron, and to hold pleas of all actions, trespasses, covenants, accounts, contracts, detinues, debts and demands whatsoever, where the debt or thing demanded exceed not the value of forty shillings of current money of England, and to receive and take all americiaments, fines, commodities, advantages, perquisites and emoluments whatsoever, to such respective court barons belonging, or in any wise appertaining: And further, to hold within the said manors a court leet, and view of frank pledge, of all the tenants, residents and inhabitants, of the hundreds within such respective manors, to be holden twice in every year, and to erect fairs, markets, courts of pipowder, with all things incident thereto". The grantees, however, were prohibited from "intermeddling" in military affairs within their territory and were made subject to the laws of the colony.⁶

In respect to their lands the proprietors under this grant held as mesne tenants of the Crown and as such, they and their heirs and assigns, were given license to "give, grant, or by any ways or means sell or alien, all and singular the premises by these presents granted, and every part and parcel thereof, to any person or persons being willing to contract for or buy the same; to be holden of [the proprietors] as of any of their aforesaid manors, in free and common socage, by fealty only and by suit of court, or by any other lawful tenure or terms used within the kingdom of England, rendering and paying such rents and other lawful reservations, as shall seem fit and convenient to" the said proprietors.

This new order of things was sufficiently disturbing to the colonists, but the charter was made particularly obnoxious to

⁶ In the petition to the Commissioners of Foreign Plantations for a grant of land between the rivers Rappahannock and Potomac in 1639, the Somers Islands Company had asked that, if granted, the territory should be "exempted from the jurisdiction of Virginia", and although the grant was never made, the idea of the Northern Neck as a separate political division was reflected in the grants of 1649 and 1669. (*Va. Mag.* XII, pp. 395-6.)

⁷ *Rev. Code*, 1819, I, p. 345.

the landholders of the Northern Neck by a provision requiring all persons who had obtained patents from the Governor and Council subsequent to September 29, 1661, to have their lands re-surveyed for the purpose of receiving new conveyances from the proprietors. At this time also a peremptory order was issued directing the Governor of the colony to aid the proprietors in enforcing their authority. When, therefore, Thomas Kerton as agent proceeded to have surveys made, the colonists protested and a petition was addressed to the King begging a rescission of the more odious features of the grant.

Kerton, Sept. 18, 1672, issued an order to the surveyor of Westmoreland County, in part as follows:

"Imp^a: you are to give notice to all y^e inhabitants of y^e county of Westmorelan^d y^t as soone as y^e land of y^e Northern tract shall be surveighed, y^e Hon:^{ble} y^e p^roprietors intend to grant them Conveighances of all lands taken up since Michaelmas, 1661, upon y^e rent of two shill: p^r hundred acres and under other reasonable coven^{ts}, and that they shall hold of ther Lordsp^s in free & comon soccadge & not by Kn^{ts} service or any other Terms or service, & y^t ther Lordsp^s expect y^t all lands, w[']soever in y^e s^d County, be forthwith surveighed at y^e Charge of all such as claime y^e s^d Land Respectively.

* * * * *

3: That for p^rsent, in respect of an addresse lately sent to his Ma^{tie} by y^e inhabitants of this tract, you suspend y^e surveighing of any lands untaken up till his Ma^{ties} pleasure be first known, but you may p^rceede to surveigh any lands in controversy or any lands taken up & in Actual possession for wh^{ch} y^e claim^t paies Rent."

On the above instructions being submitted for record, the General Court, March 25, 1672/3, after reserving any advantages from the pending petition, declared that "the Court doth think it very hard that the Tennants who have been long seated and peaceably enjoyed their Estates should pay that Rent which they have formerly paid to his Ma^{ties} Treasurer or deputy according to his Ma^{ties} Instructions, or that the said

Tennants should be recharged to new survey their lands after so long Tyme of possession".⁸

Any hope, however, that may have been entertained of a favorable response to this petition was rudely upset by another grant, this time of the entire colony for 31 years, made by Charles in 1673, to two unscrupulous favorites, Henry Bennet, Earl of Arlington, his Secretary of State, and Thomas 2nd Lord Culpeper, eldest son and heir of John late Lord Culpeper. In this grant also the benefits under their charter were reserved to the patentees of 1669.⁹

On this news reaching the colony, the people "to their unspeakable grieve and Astonishment" felt that they were now "reduced to a far worse condition than that wherein they had adventured their lives and fortunes for the planting that Country under the Company",¹⁰ and the Assembly, October 1674, despatched agents to England to endeavor to obtain some amelioration of the conditions imposed by this and the previous charter. On their arrival, Lords Arlington and Culpeper received the colonial representatives courteously and after some delay agreed to relinquish their patent provided Virginia would offer no objection to a new grant assuring them the quit rents and escheats; while the Earl of St. Albans and his associates¹¹ offered to take £400. each for their interests under the grant of 1669.¹²

In order, however, to prevent future transactions of a similar character, the agents petitioned the King for a charter incorporating the colony and granting it permission to purchase the Northern Neck. The petition also asked that Virginia "should have no other dependence than upon the Crown

⁸ *W. & M. Quarterly* VI, pp. 222-6.

⁹ *Ibid.*

¹⁰ Wertenbaker, *Va. Under the Stuarts*, p. 124.

¹¹ The proprietors of the Northern Neck at this time were, Henry Jermyn, Earl of St. Albans, Thomas 2nd Lord Culpeper, John Lord Berkeley of Stratton, Sir James Morton, of Kidlington, Co. Oxford, Alexander Culpeper, Surveyor General of Virginia and Anthony Trewewy, of St. Stephens in Brannel, Co. Cornwall. (Burke, *Hist. of Va.*, II, App., p. liv.)

¹² *W. & M. Quarterly* VI, pp. 222-6.



THOMAS, 2ND LORD CULPEPER

of England nor in the future be cantonized into parcells by grants made to particular persons". This matter came before the King in Council June 23, 1675, and was referred to the law officers of the Crown who reported favorably, whereupon Charles gave directions that the necessary documents be prepared. A delay occurred but on the insistent requests of the colonial agents, the King, April 19, 1676, ordered that the papers should pass under the Great Seal at once. Before this could be done, however, news of Bacon's Rebellion reached England, Charles reversed his order¹³ and further negotiations with the patentees were abandoned.

The Northern Neck grant, therefore, remained undisturbed and Lord Culpeper eventually acquired control of the property by purchasing a majority of the outstanding interests. Still high in royal favor, he was now appointed Governor of the colony and after numerous delays he sailed for America, reaching Virginia and formally assuming the duties of his office in May, 1680. His administration, however, was marked by a policy of extortion toward the colonists and neglect of duty toward the Crown, and on the latter ground he was removed from office in 1683.¹⁴ In the meantime Lord Arlington, Sept. 10, 1681, had sold his interest in the grant of 1673 to Lord Culpeper and he, in his turn, surrendered the charter to the King, July 25, 1684, in exchange for an annual pension of £600. which he was to receive for a period of twenty years.¹⁵ This reckless concession was thus finally annulled and the people were relieved of the burdens and the clash of jurisdiction which it threatened.

Lord Culpeper subsequently secured from James II, Sept. 27, 1688, a grant in which he was recognized as the sole owner and proprietor in fee simple of the Northern Neck territory under the patent of 1669, and all the powers and privileges conferred under that charter were confirmed to him. In addition the grant was "enlarged" by removing a proviso contained in

¹³ Wertenbaker, *Va. Under the Stuarts*, p. 126. These negotiations were ineffectually renewed by the Assembly in 1690.

¹⁴ *Ibid.*, p. 239.

¹⁵ *W. & M. Quarterly* VI, pp. 222-6.

the previous charter requiring the lands to be "possessed, inhabited or planted at or by the means or procurement" of the patentees within the space of twenty-one years. The reservation, however, of one-fifth part of all gold ore and one-tenth part of all silver ore, was retained, as well as the rent of six pounds, thirteen shillings and four pence to be paid yearly at Jamestown on the Feast of St. John the Baptist. In this document also the Governor and Council of Virginia and all minor colonial officials were charged "not to intermeddle with the Disposal, or disturb the said Thomas Lord Culpeper in the full and quiet enjoyment of the aforementioned Tract and Territory, or any Part thereof, or of the hereby granted Escheats, Advowsons, Royalties and Premises, or any of them; but that they and every one of them in their respective Places and Stations be aiding and assisting to him."¹⁶

In the meantime the efforts of the agents of the proprietors to compel Northern Neck landholders to have new surveys made had been obstinately resisted. Thomas Kerton died about 1678 and was succeeded by Col. Nicholas Spencer who made little headway either in obtaining the surveys or collecting the quit rents, notwithstanding the arbitrary measures adopted at this time by Lord Culpeper as Governor of the colony, to enforce his personal authority as proprietor of the Northern Neck.¹⁷ In this controversy the landholders attempted to secure patents for their lands by appealing to the Governor and in 1684 addressed a memorial to him through the Houses of Burgesses stating that they had at divers times made application to the proprietors for patents but as yet had not succeeded in obtaining any.¹⁸ The Governor acknowledged

¹⁶ *Grant of the Northern Neck in Virginia to Lord Culpeper*, from contemporary print in Harvard College Library.

¹⁷ *W. & M. Quarterly* VI, pp. 222-6.

¹⁸ In one case at least a patent was issued by the proprietors prior to the date of this memorial. The Mt. Vernon tract containing 5,000 acres was granted to Col. Nicholas Spencer and Lieut. Col. John Washington, March 1, 1674/5. The original patent now hangs on the wall at Mt. Vernon and is signed "Tho. Culpeper, Antho. Trethewy" and sealed with the common seal of the proprietors, six in number at that time. (See footnote, *supra*.)

the memorial but declined to forward it to the King on the ground that early action in the matter was anticipated.¹⁹

Lord Culpeper died in February, 1688/9,²⁰ and a period followed during which obscure interests in the proprietary were developed and new ones established. The larger interest owned by Lord Culpeper, descended to his only daughter Catherine,²¹ then in her minority, and she, shortly after her father's death,²² married Thomas 5th Baron Fairfax of Cameron.²³ Although Lord Culpeper left a will it does not appear

¹⁹ *Hening* III, p. 26.

²⁰ Thomas 2nd Lord Culpeper sat in the House of Lords January 30, 1688, and his brother John, who succeeded him, sat March 2, 1688.

²¹ In a patent dated August 29, 1690, she is described as "sole daughter and heire of ye sd. Thomas late Lord Culpeper". (*Northern Neck Grants*, Book I, p. 1.)

²² Catherine Culpeper married Thomas 5th Lord Fairfax prior to November 6, 1690. See letter of Lord Howard of Effingham to the Council in Virginia, under date of November 6, 1690, in which he says, "I have already spoken to my Lord Fairfax, who married Mrs. Culpeper, etc." (*Va. Mag.* IX, p. 32.)

²³ This title dates from 1627 when Sir Thomas Fairfax, Knight, (1560-1640) of Denton, near Otley, Yorkshire, was created 1st Baron Fairfax of Cameron in the peerage of Scotland. His son Ferdinando Fairfax (1584-1648), the 2nd baron, represented Yorkshire in the Long Parliament of 1640, sitting in the House of Commons. He commanded the parliamentary forces in Yorkshire on the outbreak of the Civil War in 1642. Unsuccessful at first he subsequently defended Hull and was victorious at Selby in 1644. At Marston Moor he commanded the infantry which was routed. He later held the position of Governor of York. His oldest son Thomas succeeded him as 3rd baron. Charles his second son, a colonel of horse, was killed at Marston Moor.

Thomas Fairfax (1612-1671), the 3rd baron, first served under Charles I as commander of a troop of horse and was knighted by him in 1640. He was opposed to the arbitrary prerogative of the Crown and when war broke out was made lieutenant general of the horse under his father. At the battle of Marston Moor, Sir Thomas bore himself with the greatest gallantry and although severely wounded managed to join Cromwell and the victorious cavalry on the other wing of the army. On the removal of Essex from supreme command he was selected as the new lord general, with Cromwell as his lieutenant general and cavalry commander. This appointment was justified by his victory at Naseby, and the subsequent reduction of the whole of the west of England. He succeeded his father in the barony in 1648 and in the same year took the field against the English royalists, his operations culminating in the successful siege of Colchester. He was placed at the head of the judges to try Charles I but on being convinced that the King's death was intended he refused to act. When the Scots proclaimed Charles II in 1649 and it was planned to send

that it was ever proved. His widow, Marguritte Lady Culpeper, however, took out letters of administration on his estate, February 22, 1688,²⁴ and received from William and Mary a confirmation of the Northern Neck grant. On the report of the Attorney General, January 11, 1693, "that the letters patent to Marguritte Lady Culpeper and others granting them the Northern Neck in Virginia" were good and valid in law, an order was made by the King in Council "that they enjoy the benefit of them accordingly".²⁵

Soon after her husband's death, matters in Virginia claimed Lady Culpeper's attention. Col. Spencer died in 1689,²⁶ and in 1690, she appointed Col. Philip Ludwell, then Governor of North Carolina,²⁷ to succeed him. Col. Ludwell accomplished very little as agent beyond a few confirmations and grants for escheated lands but in the few patents issued by him, 1690-

an army against them, Fairfax resigned his commission and was succeeded by Cromwell. He was then given a pension of £5,000. a year and lived in retirement on his estates in Yorkshire until Cromwell's death. Convinced of the futility of the government under the Commonwealth he took arms in 1659 against Lambert's army and his operations led to the restoration of the monarchy. Fairfax was made head of a commission to wait on Charles II and urge his return, and later provided the horse on which the king rode at his coronation. He died at Nunappleton, November 12, 1671. It is said of him that "as a soldier he was exact and methodical in planning, in the heat of battle so highly transported that scarce any one durst speak a word to him, chivalrous and punctilious in his dealings with his own men and the enemy. Honor and conscientiousness were equally characteristic of his private and public character". (*Enc. Brit.* X, pp. 131-2.) He had issue Elizabeth, who died in infancy, and Mary, who married George Villiers, 2nd Duke of Buckingham and died without issue. (*Burke's Peerage*, 1914, p. 754.)

Henry Fairfax (1631-1688), the 4th baron, was a first cousin of his predecessor. He was M. P. for Yorkshire in 1678-1685 and was succeeded by his son Thomas. (*Burke's Peerage*, 1914, p. 754.)

Thomas Fairfax (1657-1709), the 5th baron, was M. P. for Yorkshire, 1688-1707, and Brig. Gen'l and Col. 3rd Horse Guards. (*Burke's Peerage*, 1914, p. 754.)

²⁴ Much of the purely genealogical information used in this paper is derived from a MS. collection by a resident of Fauquier from English will books, parish registers, etc., entitled *The Proprietors of the Northern Neck of Virginia*, to which I have had access. This is hereafter cited as "Proprietors".

²⁵ *Cal. of State Papers, Am. & W. I.*, 1693-1696, No. 34.

²⁶ *W. & M. Quarterly*, VI, pp. 222-6.

²⁷ *Proprietors*.

1692,²⁸ Alexander Culpeper's interest in the proprietary became apparent. In these patents the proprietors are described as "ye Honorable Mistress Katherine Culpeper sole daughter and heire of ye sd. Thomas late Lord Culpeper & Allexr. Culpeper, Esq., who cometh in part Proprietor by lawfull conveyances from Thomas late Lord Culpeper and confirmed by ye sd. Mistress Katherine Culpeper, who are thereby now become ye lone and lawfull Proprietors of said tract or territory."²⁹

Alexander Culpeper's partnership had existed since the grant of 1669, under which he and Thomas 2nd Lord Culpeper, although not named in the charter, each held a one-sixth interest in the property. When Lord Culpeper purchased the other interests and nominally became sole proprietor in 1688, Alexander Culpeper evidently retained his original one-sixth, for in his will, proved January 5, 1694/5, in which he describes himself as "of Hollingbourne in co. Kent, Esq", he bequeathed his "one full sixth part" of the Northern Neck of Virginia to Marguritte Lady Culpeper.³⁰ Lady Culpeper's name, however, first appears in Northern Neck patents as her husband's administratrix soon after the order of William and Mary was made confirming the Culpeper grant. Thomas 5th Lord Fairfax's name, as Catherine Culpeper's husband, was also added at this time and from October 1, 1694, to July 2, 1709, patents were issued in the names of "Marguritte Lady Culpeper, Thomas Lord Fairfax and Catharine his wife", Alexander Culpeper appearing as part proprietor until 1698,³¹ although he died a few months after the first patent bearing Lady Culpeper's name was issued.³²

Many of the earlier patents, as in this case, were issued under a misunderstanding by the Virginia agents, or their conveyancers, of the frequent changes in proprietorship which occurred at this time, and to protect the grantees from defects in title arising from such errors, the Assembly in 1736, passed

²⁸ *Northern Neck Grants*, Book I.

²⁹ *Ibid.*, p. 1.

³⁰ *Proprietors*.

³¹ *Northern Neck Grants*, Books 2 and 3.

³² Alexander Culpeper died December 25, 1694. (*Proprietors*.)

an act providing that "the grantees, their heirs and assigns, respectively, shall forever hereafter peaceably and quietly have, hold and enjoy the same granted premises, according to such granted estates, under the rents and services by the said grants reserved, notwithstanding the infancy, coverture, or any misprision or mistake of the names, dignity or title of the said proprietors, or either of them".⁸³

Thomas 5th Lord Fairfax died January 6, 1709/10,⁸⁴ and although Marguritte Lady Culpeper died May 10th of the same year,⁸⁵ grants were made in the names of "Marguritte Lady Culpeper and Catherine Lady Fairfax" from July 20, 1710, to May 11, 1711, after which "the Right Honorable Katherine Lady Fairfax, Dutchess Dowager⁸⁶ (*sic*) of Cameron in Scotland, the only daughter and Heir of Thomas, late Lord, and Marguritte, late Lady Culpeper, Decd.," appears as the "sole and only Proprietor of the Northern Neck of Virginia".⁸⁷ This recital, however, omits the mention of Alexander Culpeper's one-sixth interest which thus passed into another period of obscurity. Marguritte Lady Culpeper in her will proved June 19, 1710,⁸⁸ left this interest in fee to her grandson Thomas 6th Lord Fairfax and Lady Fairfax, although now described as "the sole and only proprietor," represented, as a matter of fact, only five shares in the proprietary, the remaining share being held by her son.

During these proprietorial changes Col. Ludwell, after a short term of office, had been succeeded as agent by two lawyers of the Northern Neck, George Brent and William Fitzhugh, acting separately and jointly, but no substantial progress

⁸³ *Rev. Code*, 1819, I, p. 349.

⁸⁴ *Proprietors*.

⁸⁵ Wykeham-Martin, *Leeds Castle*, p. 172.

⁸⁶ *Northern Neck Grants*, Book 4.

⁸⁷ This designation is corrected April 11, 1712 to read "Baroness Dowager", and on Col. Carter being succeeded by Thomas Lee in 1713, the style is changed to "The Right Honorable Catherine Lady Fairfax, sole proprietor of the Northern Neck of Virginia". Thomas Lee and Edmund Jennings alternated as agents until Lady Fairfax's death. (*Northern Neck Grants*, Book 5.)

⁸⁸ *Proprietors*.

was made in the collection of the quit rents until Col. Robert Carter became agent in 1703. Col. Carter, nicknamed "King Carter", was himself a large landholder under the proprietors and a man of great wealth and influence. Aided by the example of Col. Richard Lee who paid a composition³⁹ for his own large holdings, Carter was able to establish the claims of his principals and to collect the quit rents as they became due.⁴⁰

Another issue which presented itself at this time was that of the boundaries of the grant. The Northern Neck was defined in the various charters as comprising the tract bounded within the heads of the rivers Rappahannock and Quirriough or Potomac, the courses of the rivers and Chesapeake Bay, but as both of these rivers forked above their falls, the question arose as to which in each case was the tributary and which the main stream. The first attempt to obtain a decision in what proved a prolonged controversy was made in 1706. On the Colonial Council in November of that year granting a piece of land in the forks of the Rappahannock to Henry Beverley, Col. Carter on behalf of the proprietors filed a protest claiming that the south branch of the river, afterwards known as the Rapidan, was the true boundary of the Northern Neck and that the land granted by the Council was, therefore, within the proprietary. The Council then issued an order suspending further grants in this region, either by the Crown or the proprietors, until both branches of the river could be viewed and the main stream determined. The commissioners appointed for this purpose, however, reported that both streams "appeared to be of equal

³⁹ A composition, theoretically, was a sum paid by the tenant for the commutation of the indefinite services of military tenure to the fixed service expressed by the annual payment of a money rent. (*Marshall v. Conrad*, Call V, p. 398.) The proprietors of the Northern Neck charged a composition, or "fine", on each grant made by them, the amount at this time being five shillings for every one hundred acres up to six hundred, and ten shillings for every one hundred acres above six hundred, to be paid within six months after the patent was signed and delivered. The composition money was payable in pounds sterling, in Spanish pieces of eight at the rate of five shillings for each piece, or in good tobacco at the rate of six shillings per one hundred pounds. (*Northern Neck Grants*, Book 1.)

⁴⁰ *W. & M. Quarterly* VI, pp. 222-6.

magnitude" and, no decision being reached, grants by the Council were resumed.⁴¹

The policy of the colonial government at this time was to encourage settlements on the upper waters of the Rappahannock to protect the frontiers of the colony against Indian incursions and from French settlers "to the westward of the high mountains". Lands, therefore, were not only granted freely, but when Spottsylvania County was formed in 1721, money was appropriated to supply the new settlers with arms and ammunition and they were exempted from taxation for a period of ten years.⁴² Col. Carter's perfunctory protests were nevertheless continued although his duty to his principals did not prevent his taking two grants in this locality for himself in 1717, protesting in both cases, however, that the Crown had no right to make them. Later in 1726 when occupying the dual position of acting Governor of the colony and agent for the proprietors, he complacently met the situation by issuing grants in the name of the Crown on the one hand and filing *caveats* against them, as agent for the proprietors, on the other.⁴³ Nothing was thus accomplished toward a settlement of the dispute and the Northern Neck boundaries remained undetermined until Thomas 6th Lord Fairfax took the matter into his own hands in 1733.

LORD FAIRFAX'S ESTATE

Catherine Lady Fairfax died in the spring of 1719,¹ leaving three sons and three daughters: Thomas, 6th Baron Fairfax of Cameron; Henry Colepeper, who died unmarried in 1734; Robert, who succeeded his brother Thomas as 7th baron;²

⁴¹ *Hite v. Fairfax*, Call IV, pp. 42 & 57.

⁴² *Hening* IV, p. 78.

⁴³ *Hite v. Fairfax*, Call, IV, p. 44.

¹ Her will was dated April 21, 1719, and was proved June 22, 1719. (*Proprietors*.)

² Robert Fairfax (1707-1793) held a commission as Major in the 1st Life Guards and represented Maidstone in Parliament 1740-1754, and Kent 1754-1761. He married twice but died without issue. (*Burke's Peerage*, 1914, p. 754.)



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Margaret, who married Rev. David Wilkins and died without issue; Mary who died unmarried; and Frances, who married Denny Martin, of the parish of Loose, Co. Kent, and died in 1791.³ She left three sons, Denny Martin, Thomas Bryan Martin and Philip Martin, to whom title to the Culpeper estates in both England and America eventually passed.

Thomas, 6th Lord Fairfax, who will hereafter be referred to as Lord Fairfax, was born at Leeds Castle in the County of Kent, October 22, 1693.⁴ He succeeded to the title in January 1709/10 and matriculated at Oriel College, Oxford, in the same year. There he acquired some literary reputation and became a contributor to the *Spectator*.⁵ During his residence in the University, Denton⁶ and the Fairfax estates in Yorkshire were sacrificed to his father's debts. The sale of this property resulted from a chancery suit brought by Thomas 5th Lord Fairfax's creditors and, in the matter of the sale, it is said, the minor's interests were not adequately protected by the two Fairfax relatives who acted as his guardians. At any rate the property sold for nothing more than was required to satisfy the claims against it and as the Culpeper inheritance, including Leeds Castle and the estates in Kent and Sussex as well as the Northern Neck lands in America, had passed to his mother, Lord Fairfax found himself reduced to the income derived from his grandmother's legacy, which, in addition to her one-sixth interest in the Northern Neck, consisted of £4,000. "in Mault Tickets".⁷ The resentment which, according to Archdeacon Burnaby, Lord Fairfax felt toward his mother, was real, but it was caused by the conditions of her

³ Ibid.

⁴ *Proprietors*.

⁵ Burnaby, *Travels Through the Middle Settlements*, 1798, App. 4.

⁶ This property had been in the Fairfax family since 1518 when Sir William Fairfax married Isabel, daughter and heir of Thomas Thwaits, of Denton Castle, Yorkshire. The property was inherited by her son Sir Thomas Fairfax, father of Thomas, 1st Baron Fairfax of Cameron. (Burke's *Peerage*, 1914, p. 754.)

⁷ Lord Fairfax writing from Oriel College to a kinsman, July 7, 1710, says, "My father's debts were near two and twenty thousand pounds and all I have during my mother's life is what my Grandmother Colepeper left me". (*Proprietors*.)

will and not by the sale of Denton with which she and Lady Culpeper had nothing to do. With her husband's example before her, Lady Fairfax chose to withhold all confidence in her son and on her death to deny him any further control of the Culpeper property than a life interest admitted. After leaving Oxford, Lord Fairfax received a commission in the Royal Horse Guards and on the death of his mother took up his residence at Leeds Castle,⁸ which he inherited from her.

Lady Fairfax by her will bequeathed the reversion of her estate in the Northern Neck to her son, Thomas Lord Fairfax, to be held by him during his natural life and on his death to pass to the "heirs male of his body". Failing such issue the estate passed in fee to his brother Robert.⁹ Lord Fairfax, therefore, held a five-sixths interest in the Northern Neck as tenant in tail,¹⁰ and of this interest he could neither make conveyance nor testamentary disposition. The one-sixth interest, on the other hand, which he had inherited from his grandmother, Lady Culpeper, he held in fee, that is to say he had the right to sell or otherwise dispose of his proprietorship, or any part of it, in respect to that interest.¹¹ In both cases, however, by the terms of the grant of 1669, he had power to grant or sell the lands held by him as proprietor to such persons as made entry for them.

To understand correctly the land transactions of the proprietors it must be borne in mind that actual sales of land were never made. With the exception of the manors, in which land was held on long terms of years or lives, the land was granted in fee simple subject to the usual reservation of rent and whatever disposition a tenant might make of it, his successors in title held under the proprietor as in the case of the original

⁸ Lord Fairfax is described as "of Leeds Castle in the County of Kent etc." in Northern Neck patents from 1722 to 1732. (*Northern Neck Grants*, Books A, B, C and D.)

⁹ *Proprietors*.

¹⁰ The Act of 1736 recites that "in respect of the said Lord proprietor's estate in the premises, the same being now held by him as tenant in tail, under the will or wills of some of his ancestors". (*Rev. Code*, 1819, II, p. 348).

¹¹ See will of Thomas Lord Fairfax, *Frederick County Records*, Will Book 4, p. 583.

grantee. After the proprietor, on his part, had granted the land his subsequent interest in it consisted of the right to collect the quit rents or to resume possession should the quit rents remain unpaid. In the case of lands already granted succession in proprietorship, therefore, included only the transfer of this right and did not disturb the tenant in his possession. Over the ungranted lands,¹² each proprietor could exercise the original privileges of his charter and, as such lands were necessarily unproductive of revenue until settled, patents were issued for them as fast as tenants could be found.

The first grant in Lord Fairfax's name was made December 1, 1722, the patent being signed by Col. Carter who had been re-instated as agent after the death of Catherine Lady Fairfax.¹³ At this time the settlement of the Northern Neck was progressing toward the mountains and for convenience of administration more definite limits were being assigned to its political divisions by the Assembly.¹⁴ Old Rappahannock County had been divided into Richmond and Essex in 1692, and from Richmond, King George had been formed in 1721, while Spottsylvania, from whose territory the Northern Neck counties of Culpeper and Madison were taken at a later date, had been created from Essex in the same year. The lands in these counties were taken up by immigrants who came to Virginia through the Capes¹⁵ and by settlers of the tidewater region who were attracted by the more productive Piedmont soils. The great rivers to their falls, afforded means of travel and communication and along their courses the counties on either side of the Northern Neck, now rapidly widening, were extended. Beyond these settlements an advance guard of pioneers was pushing forward and before 1728 had crossed the mountains.¹⁶

¹² Such lands were termed "waste" or "unappropriated" in the various acts of Assembly relating to them. (*Rev. Code*, 1819, II, p. 333.)

¹³ *Northern Neck Grants*, Book A, p. 1.

¹⁴ Counties in the Northern Neck, as in other parts of the Dominion, were created by act of Assembly, the proprietors in this respect not claiming the privileges of their charter.

¹⁵ *Va. Mag.*, XIII, p. 282.

¹⁶ *Ibid.*, p. 114.

Great landholders of the tidewater counties were also turning their attention to the new country west of the Blue Ridge and among these Col. Carter had had a large tract on the west bank of the Shenandoah surveyed for himself as early as 1729.¹⁷ But a much more numerous migration into this part of the Northern Neck had set in from another source and to these people the Colonial Council was making concessions either in ignorance of the limits of Lord Fairfax's grant¹⁸ or with little regard to his proprietary rights. The new settlers, of German and Scotch-Irish origin,¹⁹ came from Pennsylvania and other northern colonies and had learned of the fertile²⁰ Shenandoah lands from the Indian traders who, in their expeditions, followed the valleys between the Blue Ridge and the Alleghany mountains.

To promote the colonization of this territory, the Governor and Council, exercising the general powers of the Crown, had adopted the practice of issuing orders by which leave was granted to an applicant to take up lands located by him and if settled with one family to every one thousand acres within the space of two years, to issue patents "to him & them for the same in Such Several Tracts & Dividends as they shall think Fit, & in the meantime that the same be reserved Free from the entry of any other p'son."²¹ The land when granted was to be held of them "under the same Condicons of Cultivation & planting and paym't of Quit Rents as the lands held of his Majesty within this Dominion".²²

¹⁷ This tract consisting of 50,212 acres was patented Sept. 22, 1730, in the names of Col. Carter's sons Landon and George. (*Va. Mag.*, XIII, pp. 116-7.) Lands in the valley taken up by landholders of this class were settled by their overseers and slaves. (Kercheval, *Hist. of Valley*, 1902, p. 47.)

¹⁸ It is probable that at first the Blue Ridge was considered to be the western boundary of the Northern Neck. (Kercheval, *Hist. of Valley*, 1902, p. 156.)

¹⁹ *Va. Mag.*, XIII, p. 282.

²⁰ Kercheval (*Hist. of Valley*, 1902, p. 48) says that "much the greater part of the country between what is called the Little North Mountain and the Shenandoah River, at the first settlement of the Valley, was one vast prairie, and like the rich prairies of the west afforded the best possible pasturage for wild animals."

²¹ *Va. Mag.*, XIII, p. 119.

²² *Ibid.*, p. 133.

The first attempt to obtain land in the Valley on these terms was made by Larkin Chew, William Russell²³ and others in 1728, and Col. Carter on behalf of his employers, alleging that the land petitioned for was within the proprietary, filed a *caveat* in October of the same year against the grant.²⁴ This tract consisted of 10,000 acres "lying on both sides of Happy Creek, joining on the Great Mountains", but it is not apparent that the conditions of colonization were ever fulfilled by the original petitioners.

A more successful effort was made June 17, 1730, when John Van Meter, an Indian trader from New York, petitioned the Council for 10,000 acres of land "lying in the fork of the Sherando River, including the places called by the names of Cedar Lick and Stony Lick, and running up the branches of the s^d River to compleat that Quantity", and another tract of 20,000 acres in the fork "between the s^d River Sherrando and the River Cohongaroota". Isaac Van Meter, of the Province of West Jersey also applied for 10,000 acres "lying between the lands surveyed for Robert Carter, Esq., the fork of the Sherundo River and the River Opeckon".²⁵ The Council allotted the lands in both cases according to the petitions and in 1734, Jost Hite, who had purchased John and Isaac Van Meter's warrants in 1731,²⁶ furnished satisfactory evidence of their seating.²⁷ An order of Council was then made directing that the grants be perfected, but although surveys were filed Lord Fairfax interposed a *caveat*, as will be seen, and the patents at that time were not issued.²⁸

Another order obtained at the same session of the Council gave Jacob Stover, "a Native of Switzerland", leave to take up 10,000 acres of land "on the West Side of the great Mountains, and on the Second fork of the Sherundo River, on both

²³ Russell was an Englishman and is supposed to have come over with Governor Spotswood in 1710. (*Va. Mag.*, XIII, p. 283-4.)

²⁴ *Ibid.*, pp. 114 & 354.

²⁵ *Ibid.*, XII, pp. 115 & 118.

²⁶ Kercheval, *Hist. of Valley*, 1902, p. 156.

²⁷ *Va. Mag.*, XIII, p. 354.

²⁸ *Rev. Code*, 1819, II, p. 346. Patents for these lands were subsequently obtained from the crown. (*Hite v. Fairfax*, Call IV, p. 52.)

sides of the Branches thereof, for the settlement of himself & divers Germans & Swiss Families, his Associates".²⁹ This tract³⁰ was also settled and patents were actually issued for it in 1733.³¹

Col. Carter in these transactions had protested that lands on the Shenandoah were within the proprietary but had been unable to obtain a suspension of the orders. A grant, however, of such magnitude was now made as to arouse the proprietor to the necessity of taking more vigorous measures to assert his claims. Jost Hite³² and Robert McKay, of Pennsylvania, petitioned the Council, October 21, 1731, "setting forth that they and divers other families to the number of one hundred are desirous to remove from thence and Seat themselves on the back of the Great Mountains within this Colony, & praying that one hundred thousand acres of Land" be assigned to them between the lands granted John Van Meter, Jacob Stover and others, and the residue upon and including the several branches of the "Sherundo".³³ On securing an order giving them leave to locate this tract, Hite, McKay and their following, including Robert Green and William Duff who were later taken into partnership, moved from Pennsylvania "cutting their road from York, and crossing the Cohongoruton about two miles above Harper's Ferry". Their party, consisting of fifteen families, reached the Shenandoah Valley and effected a settlement in 1732.³⁴ By 1734, Hite and his associates, however, had succeeded in procuring only forty families and the Council then extended the time allowed them for complying with the conditions of the grant, to Christmas 1735.³⁵ At that date fifty-four families all told had been established and the partners having filed their surveys, became entitled under the coun-

²⁹ *Va. Mag.*, XIII, pp. 120-1.

³⁰ The locality was known by its Indian name, Massanutton, and was settled by Germans who purchased land from Stover in 1730. (*Va. Mag.*, XIII, p. 120.)

³¹ *Ibid.*

³² Hite was a native of Strasburg, Germany. (*Ibid.*, p. 133.)

³³ *Ibid.*, pp. 133-4.

³⁴ Kercheval, *Hist. of Valley*, 1902, pp. 45 & 156-7.

³⁵ *Va. Mag.*, XIII, pp. 354-6.

cil order to patents for 54,000 acres. Before these patents could be issued, however, Lord Fairfax in 1734,⁸⁶ "entered a general *caveat* against all Orders of Council, deeds, patents, entries, etc., issuing from the Crown office for lands lying within his proprietary", until its boundaries could be fixed.⁸⁷

In an attempt to have the perplexing question of the Northern Neck boundaries decided, Lieutenant-Governor William Gooch had, in June 1729, addressed a communication to the Commissioners of Trade and Plantations in which he called their attention to the ambiguity of the proprietor's charter arising from the fact that both the Rappahannock and Potomac rivers branched several times above their falls and that it was impossible to distinguish which of the branches was the main stream. He further told them that he had "absolutely refused the suspension of granting of patents, notwithstanding the remonstrances of the proprietor's agent; but proposed that the case should be fairly stated and determined according to the genuine construction of the proprietor's charter". This letter was followed by a petition to the King in Council, concurred in by the House of Burgesses, in June 1730, in which it was stated "that the head springs of the Rappahannock and Potomac are not yet known to any of your Majesty's subjects; but much inconvenience had resulted to grantees therefrom, and praying the adoption of such measures as might lead to their ascertainment to the satisfaction of all interested."⁸⁸

Lord Fairfax taking the same matter up in 1733, petitioned the King, setting forth "that the governor and council of Virginia had, from time to time, actually taken upon them to issue grants for several parcels of land, part of the petitioner's said tract; and had actually run out surveys of several other parcels of land, though the same, as the petitioner apprehends, were clearly within the bounds of the lands so granted from the crown as aforesaid, under which the petitioner claims. The petitioner therefore prayed, that your majesty would be pleased

⁸⁶ This date is given in the Revised Code of 1819, II, p. 346, as 1736.

⁸⁷ *Hite v. Fairfax*, Call IV, p. 47.

⁸⁸ *Faulkner's Report*, 1832, in Kercheval, *Hist. of Valley*, 1902, pp. 163-4.

to order a commission to issue for running out, marking and ascertaining the bounds of the petitioner's said tract",³⁹ and in the meantime that no more patents be issued for lands in the disputed territory. Agreeably to this petition an Order in Council was issued November 29, 1733, restraining the Governor and Council of Virginia from perfecting such grants and directing them to appoint commissioners to ascertain the true boundaries of the Northern Neck. These instructions, however, were not delivered to the colonial government until Lord Fairfax arrived in Virginia in 1736, to prosecute his claim.⁴⁰

Governor Gooch when he at length received the order, lost no time in putting it into effect. By commission dated September 7, 1736, he appointed William Byrd, John Robinson and John Grymes to act for the Crown, and Lord Fairfax having named William Beverley, William Fairfax and Charles Carter, the commissioners met at Fredericksburg, September 26, 1736. The specific object of the investigation was to ascertain by "actual examination and survey, the true fountains of the Rapahannock and Potomac Rivers" and to this end the commissioners were given full authority to obtain such evidence as they needed. Their "journey of observation and survey", which began October 12, 1736, was completed December 14th, of the same year⁴¹ and separate reports were made. The colonial commissioners reported to the Governor, August 10, 1737, while those representing Lord Fairfax forwarded their report to the Commissioners for Trade and Plantations November 11th.⁴² It appeared from this survey that the greater part of the contested lands lay within the limits of the proprietary and numerous protests were received, the hearing of which caused much delay. The colonial government, however, on Lord Fairfax's promise to issue patents for lands granted by the Crown in the disputed territory, issued an order December 21, 1738 confirming the survey,⁴³ and a report covering

³⁹ *Hite v. Fairfax*, Call IV, pp. 49 & 51.

⁴⁰ *Ibid.*, pp. 45, 46 & 50.

⁴¹ *Faulkner's Report*, 1832, in Kercheval, *Hist. of Valley*, 1902, p. 164.

⁴² *Rev. Code*, 1819, II, p. 345.

⁴³ *Hite v. Fairfax*, Call IV, p. 46.

the whole matter was then forwarded to the Lords of Trade and Plantations in London.⁴⁴ The finding of that board, reported April 6, 1745, and confirmed by the King in Council, April 11,⁴⁵ 1745, was to the effect "that having examined into the several reports, returns, plans, and other papers transmitted to them by the commissioners appointed on behalf of the Crown, as likewise of Lord Fairfax, and having been attended by counsel on behalf of your Majesty, as likewise of Lord Fairfax, and having heard all they had to offer thereupon, and the question being concerning that boundary which ought to be drawn from the first head spring of the River Rappahannock to the first head or spring of the River Potomac, the committee do agree humbly to report to your Majesty as their opinion, that within the words and meaning of the letters patent, granted by King James II, bearing date the 27th day of September, in the fourth year of his reign, the said boundary ought to begin at the first spring of the South Branch of the River Rappahannock, and that the said boundary be from thence drawn in a straight line northwest to the place in the Alleghany Mountains where that part of the Potomac River, which is now called Cohongoroota, first rises".⁴⁶

The "Cohongoronton" was the name given by the Iroquois to the Potomac River above its confluence with the Shenandoah,⁴⁷ and the south branch of the Rappahannock was the Rapidan, of which the main stream above its forks is known as the Conway. A map drawn by William Mayo from the field notes of the surveyors for Lord Fairfax and the Crown, entitled "The Courses of the Rivers Rappahannock and Potowmack in Virginia, as surveyed according to Order in the years 1736 & 1737", shows the boundary line, as established by the Order in Council, running from the Blue Ridge, where

⁴⁴ *Faulkner's Report*, 1832, in Kercheval, *Hist. of Valley*, 1902, p. 164.

⁴⁵ This date is given in the Revised Code 1819, II, p. 345, as April 14, but the text follows Faulkner's Report, the date on the map of 1736-7, attributed to Lord Fairfax's surveyors, and *Hite v. Fairfax*, Call IV, p. 48.

⁴⁶ *Faulkner's Report*, 1832, in Kercheval, *Hist. of Valley*, 1902, pp. 164-5.

⁴⁷ *Va. Mag.*, XXVIII, p. 315.

the Conway rises, due northwest about eighty miles to the head spring of the Potomac, in the Alleghany Mountains.⁴⁸

Lord Fairfax had thus fully established his claim and his inheritance as now defined comprised 5,282,000 acres of land⁴⁹ and included the present counties, in Virginia and West Virginia, of Lancaster, Northumberland, Richmond, Westmoreland, Warren, Stafford, King George, Prince William, Fairfax, Loudoun, Fauquier, Rappahannock, Culpeper, Clarke, Madison, Page, Shenandoah, Hardy, Hampshire, Morgan, Berkeley, Jefferson and Frederick.⁵⁰ Truly a princely estate.

By the Order in Council which confirmed the boundaries of the Northern Neck, instructions were given for the appointment of commissioners to run and mark them according to the surveys reported,⁵¹ upon the condition, however, that previous grantees of the Crown in the disputed territory, should be quieted in their possessions and their titles perfected by Lord Fairfax; the quit rents being reserved and all other privileges secured to him.⁵² This condition, which applied more particularly to Hite and his partners, had already been agreed to by Lord Fairfax in 1738, and he now confirmed the promise then made to issue the necessary patents as soon as he could open an office for the purpose. Hite at that time had withdrawn the surveys originally filed with the Secretary of the colony, twenty-seven in all, in order to lodge them with the proprietor and obtain the patents from him.⁵³

⁴⁸ This line was drawn on Mayo's map after the survey of 1746. It is also shown on the Map of Virginia, Maryland, &c., made by Joshua Fry and Peter Jefferson, in 1751, and on John Henry's Map of Virginia made in 1770.

The Fairfax line crossed the main Valley of Virginia about two miles south of Newmarket, in Shenandoah Co. (*Va. Mag.*, XIII, p. 115.)

⁴⁹ As reported by the commissioners for the Crown in 1736. (*Va. Mag.*, XXVIII, p. 316.)

⁵⁰ Howe, *Historical Collections of Va.*, 1852, p. 236.

⁵¹ Lord Fairfax reappointed his original commissioners June 11, 1745, and Col. Joshua Fry, Col. Lunsford Lomax and Major Peter Hedge-man were appointed on the part of the Crown. They commenced their survey September 18, 1746, and October 17, of the same year, planted the *Fairfax Stone* at the true head spring of the Potomac River. (*Faulkner's Report*, in Kercheval, *Hist. of the Valley*, 1902, pp. 165 & 171.)

⁵² *Rev. Code*, 1819, II, p. 345.

⁵³ *Hite v. Fairfax*, Call IV, p. 46.

The adjustment of this dispute, which had now apparently been effected, was further confirmed by an act of Assembly in 1748, which, after reciting the settlement of the Northern Neck boundaries and that "Lord Fairfax hath consented, before the king, in council, that the several grants and patents made by the crown, of the lands included in the boundary aforesaid, should be confirmed to the several grantees, their heirs and assigns, to be held nevertheless of the said Lord Fairfax, under the like rents, services, profits, and emoluments, as should be paid, done and arise, by and from the said grants made by the crown" provided "that all grants and patents whatsoever, under the seal of this colony, for lands situate and lying within the limits and boundaries of the letters patent granted to the ancestors of the said Lord Fairfax, as the same are now settled and determined, heretofore made and granted by the crown, shall be held, deemed and taken to be valid and effectual; and the adventurers and planters to whom the same were granted, their heirs and assigns, shall forever hereafter peaceably and quietly have, hold and enjoy the said granted premises, respectively, according to such granted estates, under the rents and services in the said grants reserved, to be paid and performed to the said Thomas Lord Fairfax, his heirs and assigns, forever, any misrecital or defect in the said grants notwithstanding."⁵⁴

Lord Fairfax, on the death of Col. Carter in 1732,⁵⁵ had offered the Northern Neck agency to his cousin William Fairfax, then living at Salem, Massachusetts, a man of character and ability who afterwards rose to distinction in Virginia as President of the Colonial Council. He was a son of Henry Fairfax, of Tolston, Yorkshire, the younger brother of Thomas 5th Lord Fairfax,⁵⁶ and had served with the army in Spain and, in 1718, under Captain Woodes Rogers, Governor of the Bahamas, against the pirates of the Island of New Provi-

⁵⁴ *Rev. Code*, 1819, I, pp. 349-50.

⁵⁵ *Va. Mag.*, XIII, p. 115.

⁵⁶ *Burke's Peerage*, 1914, p. 754.

dence.⁵⁷ He now accepted his kinsman's offer, sailing for Virginia in 1734⁵⁸ and establishing himself in Westmoreland County where he opened a land office.⁵⁹ Here he received Lord Fairfax on his arrival in Virginia and proceedings were at once instituted for a survey of the Northern Neck boundaries. Lord Fairfax, at this time, also took up other matters in connection with the management of the estate and appears at first to have signed such patents as were issued, with his own hand; later he turned this business over to his cousin and patents from November 15, 1736, were signed "By Command of his Lordship, W. Fairfax, Agent".⁶⁰ During this visit Lord Fairfax is said to have become "captivated with the climate, the beauties and produce of the country" and to have decided eventually to return "to settle and cultivate that beautiful and immense tract of country, of which he was the proprietor."⁶¹

When the survey was completed and the Colonial Council finally forwarded the report of its commissioners to England in 1738,⁶² Lord Fairfax returned to that country to direct the proceedings in support of his claim. He appeared before the Privy Council in 1745 and personally agreed to the conditions under which the order deciding the boundary dispute in his favor was made.⁶³ After this he sailed again for America to secure from the Colonial Assembly a ratification of his convention with the Crown. While in England he was present at his brother Robert's marriage to Martha, daughter of Anthony Collins, of Badow, Essex, in 1741,⁶⁴ and Burnaby states, that "he frequently mentioned the fatigue he underwent in sitting up for a month together, full dressed and in form to receive visits upon that occasion."⁶⁵

⁵⁷ *Proprietors.*

⁵⁸ *Ibid.*

⁵⁹ Burnaby, *Travels Through the Middle Settlements*, 1798, App. 4.

⁶⁰ *Northern Neck Grants*, Book E.

⁶¹ Burnaby, *Travels Through the Middle Settlements*, 1798, App. 4.

⁶² *Hite v. Fairfax*, Call IV, p. 48.

⁶³ *Ibid.*

⁶⁴ Burke's *Peerage*, 1914, p. 754.

⁶⁵ Burnaby, *Travels Through the Middle Settlements*, 1798, App. 4.

Col. William Fairfax, in the meantime, had removed to Fairfax County and was living at Belvoir, a house which he had built for himself on the banks of the Potomac. Thither Lord Fairfax went on his return to Virginia and spent the next two or three years in his cousin's household,⁶⁶ assuming in part the management of the proprietary during that period. From July 21, 1747, Northern Neck patents were signed by him personally⁶⁷ and in March 1748 he employed George Washington, a lad of sixteen years, who was then living at Mt. Vernon with his brother Lawrence,⁶⁸ to make surveys of lands beyond the Blue Ridge, possibly of the tract on which Lord Fairfax was soon to settle. At this time the latter was also conducting the negotiations with the colonial government which led to the legislation of 1748.

Lord Fairfax had now definitely decided to spend the remainder of his life in Virginia and in selecting a place of residence he was not a little influenced by the possibilities of sport which the locality afforded. Fox-hunting was his favorite amusement and in this he had evidently had opportunities to indulge during his stay in Fairfax County. Now, however, as Burnaby says, "the lands about Belvoir not answering his expectations, *and the foxes becoming less numerous*, he determined to remove to a fine tract of land on the western side of the Blue Ridge, or Appalachian Mountains, in Frederick County,⁶⁹ about eighty miles from Belvoir; where he built a small neat house, which he called Greenway Court;⁷⁰ and laid out one of the most beautiful farms, consisting of arable and grazing lands, and of meadows two or three miles in length that had ever been seen in that quarter of the world".⁷¹ This

⁶⁶ Ibid.

⁶⁷ *Northern Neck Grants*, Book F.

⁶⁸ Sparks, *Life of Geo. Washington*, p. 12.

⁶⁹ Frederick County was formed from Orange and part of Augusta in 1738. (*Bulletin Va. State Library*, IX, p. 50.)

⁷⁰ Greenway Court, in the County of Kent, was a seat of the younger branch of the Culpeper family.

⁷¹ Burnaby, *Travels Through the Middle Settlements*, 1798, App. 4.

occurred after the arrival of his nephew Thomas Bryan Martin, in 1751.⁷²

The country was well chosen, if the pleasures of the chase were Lord Fairfax's object in selecting it, for the Shenandoah Valley, still sparsely settled, abounded in all manner of game. Buffalo, elk, deer, bear, beaver, otter and foxes were plentiful, while wolves were so numerous that taxes had been levied to provide means for their destruction.⁷³ This region had long been a hunting ground of the Virginia Indians⁷⁴ and small bands were still encountered there. Tribes of the Five Nations also passed constantly over the road to North Carolina, the use of which had been granted them by the Treaty of Lancaster,⁷⁵ but the white settlements were not molested until the hostile incursions incited by the French, began in 1754. These ended when the French withdrew from Fort Duquesne three years after Braddock's defeat, but Indian raids and disorders continued in the Valley until 1766.⁷⁶

The tract of land in Frederick County to which Lord Fairfax removed contained 8840 acres lying on the north bank of the Shenandoah and on the branches of the Opeckon, adjoining Jost Hite's and Robert McKay's tracts. It was known as the Manor of Greenway Court and had been granted as a gift to Thomas Bryan Martin, May 21, 1752, the patent expressing as the consideration, "the natural affection I have and bear unto the said Thomas Bryan Martin as my Nephew and for the annual rent hereafter reserved". This consisted of the payment at Michaelmas of each year, of "one good buck and doe, over and above the usual accustom'd Rent".⁷⁷ The manor

⁷² The patent to the Greenway Court Manor was issued by Lord Fairfax from "my office in the County of Fairfax" May 21, 1752. (*Northern Neck Grants*, Book H, p. 179.)

⁷³ *Va. Mag.*, XIII, p. 361.

⁷⁴ The Tributary Indians protected by the Treaty of Albany, 1722, consisted of, the Nottoways, Nansemonds, Meherrins, Pamunkeys and Chickahominys, together with remnants of the Saponis, Ocheneeches, Stengenocks, Meipontskys and Toteroes. (*Va. Mag.*, XII, p. 345.)

⁷⁵ *Ibid.*, XIII, p. 6.

⁷⁶ Kercheval, *Hist. of Valley*, 1902, pp. 68 and 107.

⁷⁷ *Northern Neck Grants*, Book H, p. 179.

was laid out in farms which were leased to tenants, Lord Fairfax occupying the farm on which the Manor House was situated, or what may be considered the demesne. The house was not a very pretentious affair, being built of timber one story high with a half story under the roof and covered with clapboards. The roof was shingled and projected down over an ample porch running the full front of the building, while dormer windows gave light to the half story, or attic.⁷⁸ The land about the house was heavily timbered and only a sufficient space was cleared for the principal buildings, which, in addition to Lord Fairfax's house, consisted of a house for the bailiff, or overseer, and a small stone building⁷⁹ which served at first as the local, and afterwards as the proprietary land office. The slaves, about one hundred and fifty in number, were quartered in log cabins scattered about in the woods. There were stables and other buildings on the estate, to which Lord Fairfax had planned extensive additions, but these he did not live to complete.⁸⁰ The farms were stocked with cattle, sheep and hogs⁸¹ and the land was doubtless cultivated in such crops as Indian corn, wheat, oats, flax and tobacco. Lord Fairfax, who is said to have been jilted in early life, never married and his household now consisted of his nephew Thomas Bryan Martin, a white housekeeper and his servants.⁸²

His mode of life at Greenway Court may best be described in Burnaby's words:⁸³ "He lived there the remainder of his

⁷⁸ Lord Fairfax planted a white post one mile from his house as a guide to travellers approaching through the woods. The present village of White Post, in Clarke County, took its name from this post, which is still standing. The original manor house was destroyed in 1834. (Howe, *Hist. Coll. of Va.*, 1852, p. 235.)

⁷⁹ This building is still standing.

⁸⁰ Howe, *Hist. Coll. of Va.*, 1852, p. 236.

⁸¹ See will of Thomas Lord Fairfax, *Frederick County Records*, Will Book 4, p. 583.

⁸² Kercheval, *Hist. of Valley*, 1902, p. 159.

⁸³ During Archdeacon Burnaby's travels in America in 1759-60 he visited Greenway Court and although Lord Fairfax was not at home at the time, he met him personally on at least one occasion. He also had opportunities to converse with prominent men in the colony to whom Lord Fairfax was well known. His narrative, therefore, must be accepted as the most authentic account of the details of Lord Fairfax's life in Virginia to which the public so far has had access.

life, in the style of a gentleman farmer; or, I should rather have said, of an English country gentleman. He kept many servants, white and black; several hunters; a plentiful but plain table, entirely in English fashion; and his mansion was the mansion of hospitality. His dress corresponded with his mode of life, and, notwithstanding he had every year new suits of clothes, of the most fashionable and expensive kind, sent out to him from England, which he never put on, was plain in the extreme. His manners were humble, modest and unaffected; not tinctured in the smallest degree with arrogance, pride or self-conceit. He was free from selfish passions, and liberal almost to excess. The produce of his farms, after the deduction of what was necessary for the consumption of his own family, was distributed and given away to the poor planters and settlers in his neighborhood. To these he frequently advanced money, to enable them to go on with their improvements; to clear away the woods, and cultivate the ground; and where the lands proved unfavourable, and not likely to answer the labour and expectation of the planter or husbandman, he usually indemnified him for the expense he had been at in the attempt, and gratuitously granted him fresh lands of a more favourable and promising nature. He was a friend and father to all who held and lived under him; and as the great object of his ambition was the peopling and cultivating of that fine and beautiful country, of which he was the proprietor, he sacrificed every other pursuit, and made every other consideration subordinate, to this great point. * * * He devoted a considerable part of his time to the public service. He was Lord Lieutenant⁸⁴ and Custos Rotulorum of the county of Frederick, presided at the county courts held at Winchester, where during the sessions he always kept open table; and acted as surveyor and overseer of the highways and public roads. His chief if not sole amusement was hunting; and in pursuit of this exercise he frequently carried his hounds to distant parts of the country; and entertained every gentleman of good char-

⁸⁴ An entry in the Court Martial Records of Frederick County was signed by him as county lieutenant, April 14, 1756. (Kercheval, *Hist. of Valley*, 1902, p. 158.)

acter and decent appearance, who attended him in the field, at the inn or ordinary, where he took up his residence for the hunting season."⁸⁵ Burnaby admits, however, that he "had some few singularities in his character that occasionally exposed him to the smiles of the ignorant", but discreetly fails to disclose what they were. Perhaps the habit which Kercheval attributes to him of burying gold coin was one of them.⁸⁶

Lord Fairfax, aided by his nephew, who had been made colonel of militia, was active in organizing his district for defense during the Indian wars and declined to yield to the importunities of his friends, and the gentry of the colony generally, that he should retire from his frontier dwelling to a place of greater security.⁸⁷ He was earnestly engaged at this time in the colonization of the western country and although settlements were seriously retarded by these disturbances, his presence and influence did much to hold the people already established there together and to encourage a resumption of the movement when the disorders ceased. After quiet had been restored to some extent, he made occasional journeys to the tidewater region and on one occasion was present at Williamsburg on a visit of ceremony to Lieutenant-Governor Francis Fauquier, who had recently arrived from England.⁸⁸ He was also probably in attendance at Belvoir at the time of his cousin's death.

William Fairfax died in 1757⁸⁹ and was succeeded as agent of the Northern Neck by his son George William, who had been George Washington's associate in his early surveys. The main office of the estate remained at Belvoir,⁹⁰ although Lord Fairfax had opened a land office for Frederick County at Greenway Court in 1749.⁹¹ In 1760, however, on George William Fairfax's departure for England, the estate office

⁸⁵ Burnaby, *Travels Through the Middle Settlements*, 1798, App. 4.

⁸⁶ Kercheval, *Hist. of Valley*, 1902, p. 159.

⁸⁷ Burnaby, *Travels Through the Middle Settlements*, 1798, App. 4.

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*

⁹⁰ *Proprietors.*

⁹¹ *Hite v. Fairfax*, Call IV, p. 49.

also was transferred to Greenway Court,⁹² and subsequently the business of the proprietary appears to have been conducted by Lord Fairfax himself. The Northern Neck thus entered the final period of its colonial history under the administration of a resident proprietor, the long list of agents, which had included some of the ablest and most prominent men in the colony, having closed with the retirement of William Fairfax's son.

The controversy with Jost Hite and his partners which the agreements of 1738, 1745 and 1748 had apparently settled, was re-opened with the opening of Lord Fairfax's office in Frederick County. Hite had been notified in 1748 to send in a list of his claims and Lord Fairfax delayed opening his office until they were received. When, after waiting ten months the list finally came in, he found it to be very imperfect and accepted it only on the condition that new surveys should be made. This did not suit Hite, who entered a *caveat* against other warrants issuing for these lands, and on October 10th, 1749, filed a bill in chancery in the then General Court against Lord Fairfax, claiming that the latter had refused to make grants to himself and partners and that he had conveyed a portion of the land contained in their surveys to other persons.⁹³

Action by the court on Hite's bill was not reached until after the death of both Hite and his first partner, Robert McKay, but at length the case came up and, October 13, 1769, an interlocutory decree was made in favor of the plaintiffs. This declared that they were entitled to such lands as had been actually surveyed under orders of Council before Christmas 1735 and for which patents had not been obtained from the Crown prior to April 11, 1745. The court then appointed commissioners to examine Hite's claims and they presently reported twenty-seven surveys containing 37,834 acres, and that Lord Fairfax had produced a list of patents from the Secretary's office for 42,778 acres which, he alleged, showed that the

⁹² *Proprietors.*

⁹³ *Hite v. Fairfax*, Call IV, p. 42 *et seq.*

Van Meter orders in Council had been more than satisfied. When this report was received, the court, October 15, 1771, delivered an opinion in which it stated that those claiming under Jost Hite were entitled to the 30,000 acres originally taken up by John Van Meter under the council order of June 17, 1730, and to the 10,000 acres taken up by Isaac Van Meter on the same day, for all of which patents had subsequently been issued by the Crown. The court further declared that the plaintiffs were entitled to 54,000 acres of the 100,000 acres taken up by Jost Hite and Robert McKay under the council order of October 21, 1731, fifty-four families having been settled on that tract within the extension of time allowed by the Council.⁹⁴ A final decree was then entered providing, (1) that the persons who had contracted with Hite and McKay for part of the said 54,000 acres and had subsequently obtained patents therefor from Lord Fairfax, should be quieted in their possession upon paying to Hite the purchase money still due under his contracts; (2) that those who had obtained deeds from Lord Fairfax without making contracts with Hite for other parts of the said 54,000 acres, should likewise be quieted in possession upon paying to the plaintiffs the sum of three pounds sterling for every one hundred acres so held; (3) that Lord Fairfax should execute deeds, to the plaintiffs for such lands within the twenty-seven surveys as were not contracted for or possessed by any other person at the date when the suit was brought, such deeds, or patents, to be subject to the usual quit rents but not to the payment of composition money, and (4) that Lord Fairfax should execute deeds in a like manner to Hite's assignees, etc.⁹⁵

From this decision Lord Fairfax appealed to the King in Council but the Revolution intervened and the appeal was not prosecuted. Hite's company, however, was not yet satisfied and in 1780 they petitioned the Court of Appeals to permit them to appeal to that court. This was allowed and notice was served on Lord Fairfax, but the case was not heard in his life-

⁹⁴ Ibid.

⁹⁵ Ibid.

time. In February, 1785, Isaac Hite and John Green, now representing the company, notified Lord Fairfax's executors and Denny Martin, his devisee, who was acting also as Robert Lord Fairfax's attorney, that they had lodged the record of the case with the Court of Appeals and would press for trial. The case, Hite et al v. Fairfax et al., accordingly came on to be heard in May, 1786, Hite appealing from such parts of the decree of the lower court as confirmed the grants made by Lord Fairfax to other parties before the commencement of the suit, and contending that his company should have conveyance of all the lands included in the twenty-seven surveys. Those claiming under Lord Fairfax, on the other hand, maintained that the agreements into which he had entered and which had been confirmed by the Act of 1748, extended only to deeds and patents issued by the Crown prior to his *caveat* of 1734, and that the word "grant" did not include orders of Council and unperfected surveys under them. The decree in this case, when it was reached, reversed the decree of the general court and declared, "That the heir or devisee of the late Lord Fairfax claiming the proprietary of the Northern Neck, or both, if it shall be judged necessary, or those having the legal title therein, by conveyance from the said late Lord Fairfax, subsequent to the 25th day of December, 1735, do severally convey, to the appellants, such parts of the lands, contained within the twenty-seven surveys * * * as they respectively hold the legal title to". The cases of persons affected by the decree, except the heirs and executors of Lord Fairfax, were then remanded to the High Court of Chancery.⁹⁶ This virtually ended a controversy which had agitated the western settlements for fifty years and which outlived all the original parties to it.

An examination of the regulations under which lands were granted in the Northern Neck shows them to have been distinct from the laws in force in other parts of the colony. Under the latter the common basis of the patent was the head right, a system unknown in the proprietary⁹⁷ where the extent

⁹⁶ Ibid.

⁹⁷ Bruce, *Economic Hist. of Va.*, I, p. 569.

of the grant was not limited and a payment, or composition, was required when the patent was issued. The proprietors prescribed and published their own rules without reference to the colonial government.⁹⁸ In the case of lands granted in fee, the applicant made entry for the tract he wished to acquire and secured a warrant from the proprietary land office under which the survey was made at his cost, and on its return and the payment of the office fees and composition, the deed, or patent, was issued.⁹⁹ The consideration expressed in the patent was the composition, usually at the rate of thirteen shillings and four pence for each one hundred acres,¹⁰⁰ and the reserved fee rent of one shilling sterling for every fifty acres to be paid annually at Michaelmas. If this rent remained unpaid for two years, the grantor had the right to re-enter and hold the land as if the grant had never passed. The patent also reserved to the Crown its rights in all mines, and to the proprietor a third part of all lead, copper, tin, coal and iron ores.¹⁰¹

In addition to the lands granted in fee, the proprietors had, from time to time, laid off certain large tracts of land to which they retained title and which they leased to settlers on long terms either of lives or years. These tracts, known as manors, were divided by the proprietors' surveyors into farms or lots, and in all the manors leases were granted under more or less similar terms and conditions. In Lord Fairfax's time, the duration of the lease was almost uniformly that of three lives, that is, the life of the lessee and of any other two persons he chose to name; in some cases the wife and one child being named, in others, two children, and in others again, a child and a grandchild. The lease was renewable at the expiration of the term on the payment of a fine of one year's rent. The rent was at the rate of twenty shillings, for every one hundred acres, payable yearly at Christmas, or in some cases Michaelmas, with the right of re-entry in default of payment within twenty

⁹⁸ *Rev. Code*, 1819, II, p. 344.

⁹⁹ *Hite v. Fairfax*, Call IV, p. 50.

¹⁰⁰ For the composition exacted in 1690 see footnote *supra*.

¹⁰¹ *Marshall v. Conrad*, Call V, pp. 365-6.

days. The lessee was also required to pay all taxes levied by the Assembly and to comply with certain conditions, such as building a dwelling on the land, if one was not found there; planting an orchard of one hundred and fifty apple trees "at fifty feet distance", and generally conserving the resources of the farm. After Lord Fairfax's death, however, the terms and conditions under which the manor lands were leased, varied widely. In the Manor of Leeds, for instance, leases for certain lots were made for twenty-one years at the yearly rental of one shilling, the lessee being required to have the lot surveyed; build a house twenty feet long by sixteen wide, with a stone or brick chimney, and plant an orchard of one hundred apple trees thirty feet apart. In other cases leases for three lives were made at yearly rents considerably higher than those charged during Lord Fairfax's life, the tenant in addition being required to have his land surveyed, as well as to build and to plant an orchard.¹⁰²

The proprietors under their charter had power to hold courts within the manors created by them, in the nature of a court baron, and this privilege was exercised by Lord Fairfax.¹⁰³ The freeholders presided over by the lord of the manor, or his agent, constituted the court, through which, doubtless, many minor disputes over land transactions were settled without reference to the colonial courts of law.

The Manor of Leeds, the largest and most important of the manors, consisted originally of a tract of 119,927 acres of land described in a patent of 1767 as lying in the counties of Loudoun, Fauquier and Frederick (now Warren), on the north branch of the Rappahannock, formerly called the Hedgman River, on the upper side of Carter's Run, on the branches of Goose Creek, and on the lower side of the Shenandoah River below Happy Creek, including the Blue Ridge between Happy Creek Gap (now Chester's Gap) and Ashby's Gap. This tract was surveyed for Lord Fairfax by John Warner, November 15, 1736,¹⁰⁴ and is shown on the "Map of the Courses of the

¹⁰² *Fauquier County Records*, Deed Books 1 to 13.

¹⁰³ *Hite v. Fairfax*, Call IV, p. 43.

¹⁰⁴ *Northern Neck Grants*, Book O, p. 76.

Rivers Rappahannock and Potowmack, 1736-7", as occupying the eastern slope of the Blue Ridge, in what is now Fauquier County. Its boundaries in that county, in which by far the greater portion of the land lay, may be roughly given as running from Ashby's Gap, along the top of the Blue Ridge to Chester's Gap at the headwaters of the Rappahannock River, from thence with that river to its confluence with Carter's Run at Waterloo, thence with Carter's Run to where it crosses the Fredericksburg-Winchester road near Marshall, and thence along that road from Marshall to Ashby's Gap.¹⁰⁵ The land contained in the original survey was granted by Lord Fairfax to Thomas Bryan Martin and re-conveyed by him August 21, 1767.¹⁰⁶ Another tract, afterwards included in the Manor of Leeds, was also surveyed for Lord Fairfax by John Warner Nov. 29, 1736. It consisted of 26,535 acres of land and is described in the patent by which it was granted to Thomas Bryan Martin and re-conveyed by him, Aug. 21, 1767, as being in the counties of Fauquier, Loudoun and Frederick (now Clarke) and lying on the southern bank of the Shenandoah River, including the Blue Ridge between Ashby's Gap and Williams' Gap, now known as Snicker's Gap.¹⁰⁷ A third tract held with the Manor of Leeds, containing 13,920 acres, was surveyed by William Green, March 10, 1748. It was also granted by Lord Fairfax to Thomas Bryan Martin and re-conveyed by him, November 1, 1777, and is described in the conveyances which then passed, as lying between Goony Run and Happy Creek in what is now Warren County.¹⁰⁸ This tract was known as the Goony Run Manor¹⁰⁹ and with the two tracts first described, completed the 160,382 acres of land which eventually came to be known as the Manor of Leeds.

The South Branch Manor, next in importance to the Manor of Leeds, contained 54,596 acres. It was surveyed by James

¹⁰⁵ Letter of the late Mr. Gray Carroll, of Hume, Va., dated June 4, 1913.

¹⁰⁶ *Northern Neck Grants*, Book O, p. 76.

¹⁰⁷ *Ibid.*, p. 80.

¹⁰⁸ *Ibid.*, Book Q, p. 215.

¹⁰⁹ Kercheval, *Hist. of Valley*, 1902, p. 158.

Genn, March 31, 1747, and in Thomas Bryan Martin's patent, August 21, 1767, is described as lying on the Wappacomo, or the Great South Fork of the Potomac River, in Hampshire County.¹¹⁰ It is shown on the north bank of this river on Fry and Jefferson's Map of 1751, under the name of the Fairfax Manor. Other smaller tracts were laid off and granted to Thomas Bryan Martin in a similar manner and on Lord Fairfax's death, the manor lands, exclusive of the Manor of Greenway Court to which he only retained the seignorial title, aggregated 219,341 acres.¹¹¹

Lord Fairfax for the purpose of securing to himself private property in the manor lands irrespective of his seignorial title, adopted the method of first granting the land by patent in the usual way to his nephew and then receiving from him a re-conveyance in fee.¹¹² This proved a wise precaution in view of subsequent legislation, although by construction of the courts the proprietor, holding under the Crown in fee simple, had a property in the soil and complete possession of it.¹¹³

The period immediately preceding the Revolution had been marked by great prosperity in the Valley and Lord Fairfax, on the whole, could view with satisfaction the progress that had been made since his settlement there. Colonization beyond the Great North Mountains and along the Potomac had

¹¹⁰ *Northern Neck Grants*, Book O, p. 72.

¹¹¹ From a statement by the Register of the Land Office, April 4, 1921, of grants to Thomas Bryan Martin between the years 1751 and 1781.

In *Hunter v. Fairfax's Devisee*, Munford I, p. 221, the case agreed stated "that Thomas Lord Fairfax died seised in fee of sundry tracts of land in the County of Frederick, and other counties in the Northern Neck, containing altogether 300,000 acres, which had been granted and conveyed by him to Thomas Bryan Martin, in fee, upon the same terms, etc., which lands were soon thereafter re-conveyed by the said Thomas Bryan Martin unto him in fee". Also, in *Marshall v. Conrad*, Call V, p. 392, Judge Roane, in his opinion, stated that the "renunciation [of the vacant lands under the act of 1796] is also founded upon a full and valuable consideration; upon the grant by the Commonwealth of Virginia, of at least 300,000 acres of land claimed by Mr. Fairfax as his private property". These statements, however, are not borne out by the records of the Land Office.

¹¹² *Hunter v. Fairfax's Devisee*, Munford I, p. 221.

¹¹³ *Stephen v. Swann*, Leigh IX, p. 414.

made the sub-division of Frederick County necessary, and Hampshire had been formed from it in 1754, and Berkeley again in 1772. The most notable evidence of the development of this territory, however, was the growth of the town of Winchester, which began with two houses in 1738,¹¹⁴ and in 1777 numbered 800 souls.¹¹⁵

It had been surveyed as a town and laid off in lots under an act of Assembly of 1752. The land belonged to Lord Fairfax and the lots were granted in pairs, that is, two lots of one-half acre each, were included in each grant. The composition charged for the two was ten pounds sterling, and the yearly rent, collectible thirty days after it became due, was five shillings. One of the two lots in each case was situated in the town and on this the grantee was required to build; the other lot could not be built on, and was included in a tract of 439 acres, near the town, which Lord Fairfax had laid off and reserved as a common.¹¹⁶ Lots were freely taken up under this system and in 1758 the town was enlarged by the addition of Col. James Wood's land, and at this time also trustees were appointed, including among others, Lord Fairfax and Col. Martin. Lord Fairfax later added more land to the town and in some cases acquired private property in the lots by conveyance and re-conveyance as in the case of the manor lands. Winchester early became a military base. It was Washington's headquarters in the French and Indian wars and large quantities of public stores for the Valley settlements were held there. In 1756 it was judged necessary by the Assembly to erect a fort within the town "for the protection of the adjacent inhabitants against the barbarities daily committed by the French and their Indian allies" and one thousand pounds sterling was appropriated for the purpose. Washington accordingly laid off and built a field work, quadrilateral in plan with four bastions, which covered about half an acre. It was called Fort Loudoun and is said to have mounted twenty-four pieces

¹¹⁴ Howe, *Hist. Coll. of Va.*, 1852, p. 273.

¹¹⁵ Kercheval, *Hist. of Valley*, 1902, p. 141.

¹¹⁶ *Marshall v. Conrad*, Call V, p. 367.

of ordnance and to have been strongly garrisoned. This fort, however, was never attacked and early in the Revolution its cannon were dismounted and put to other uses.¹¹⁷ Winchester was not more than a two hours ride from Greenway Court and Lord Fairfax frequently rode into town to transact business, hold his magistrate's court or, of a Sunday, to attend services at the Episcopal Church, a stone building on the edge of the common for which he had given the land.

When hostilities against Great Britain began at Lexington, April 19, 1775, Lord Fairfax was a very old man, too old to engage in the activities of the Tories and too wise to antagonize the patriotic party by openly displaying sympathy with the British. Burnaby says of him at this time, "So unexceptional and disinterested was his behaviour, both public and private, and so generally was he beloved and respected, that during the late contest between Great Britain and America, he never met with the least insult or molestation from either party, but was suffered to go on in his improvement and cultivation of the Northern Neck; a pursuit equally calculated for the comfort and happiness of individuals, and for the general good of mankind."¹¹⁸ Lord Fairfax's legal status during the Revolution was that of a citizen of Virginia¹¹⁹ and not that of a British subject, so that the confiscatory acts which were passed at this time had no application to him, and his rights and privileges were in no way curtailed.¹²⁰ Moreover, when the Commonwealth abolished feudal land tenures in 1777¹²¹ and the lands were exempted from the further payment of quit rents, the Northern Neck was specifically excepted and no attempt was made to interfere with the collections of Lord Fairfax's rents. Indeed, to equalize the benefits of the act

¹¹⁷ Howe, *Hist. Coll. of Va.*, 1852, p. 273.

¹¹⁸ Burnaby, *Travels Through the Middle Settlements*, 1798, App. 4.

¹¹⁹ *Hite v. Fairfax*, Call IV, p. 55.

¹²⁰ The act of Oct. 1777, entitled "An act for sequestering British property, etc.", and the act of May, 1779, entitled "An act concerning Escheats and Forfeitures from British Subjects". (*Rev. Code*, 1819, II, pp. 484-6.) For an opinion on this point see *Fairfax's Devisee v. Hunter's Lessee*, Cranch (U. S.) VII, p. 623.

¹²¹ *Rev. Code*, 1819, II, p. 350.

without disturbing him in this privilege, his tenants were allowed to reimburse themselves by deducting from their taxes the sum of two shillings six pence for every one hundred acres on which quit rents had been paid.¹²²

The Declaration of Independence, disavowing monarchical rule in America, freed the Virginia lands of the supreme overlordship of the Crown, and when quit rents were also abolished in all parts of the Commonwealth except the Northern Neck, the feudal system of land tenure which had so long prevailed, gave place to allodial tenures, or absolute ownership, subject only to the right of eminent domain inherent in the State. This status was confirmed by an act of May, 1779, entitled "An Act for Establishing a Land Office, etc.", which, after premising that land owners should no longer be "subject to any servile, feudal or precarious tenure and to prevent the danger to a free state from perpetual revenue", provided, "that the reservation of royal mines, of quit rents, and all other reservations and conditions in the patents or grants of land from the Crown of England or of Great Britain under the former government, shall be and are hereby declared null and void; and that all lands thereby respectively granted shall be held in *absolute and unconditional property*, to all intents and purposes whatsoever, in the same manner with the lands hereafter to be granted by the Commonwealth, by virtue of this act."¹²³ In the Northern Neck the land was still held of the proprietor by feudal tenure but he, no longer a Crown tenant, held his ungranted lands as a private owner and in the case of lands to which he had passed title, collected his quit rents only by favor of the Assembly.

Lord Fairfax died at Greenway Court, December 9, 1781.¹²⁴ It is said that on receiving the news of Lord Cornwallis' sur-

¹²² Ibid., p. 351.

¹²³ Ibid., p. 375.

¹²⁴ *Proprietors*, from an explicit statement of the date in a letter written by Robert 7th Lord Fairfax to Bryan Fairfax, May 9, 1783. The date is confirmed by a reference to Lord Fairfax's death as having occurred "in December last", in the Maryland Journal of March 5, 1782, and by a statement that he "departed this life in December, 1781", in *Marshall's Lessee v. Foley et al.*, Fauquier County, Record of Land Causes, Book B, p. 267.

render at Yorktown, October 19, 1781, he remarked, "It is time for me to die", and calling upon his servants to assist him, he took to his bed from which he never again arose. He was buried under the communion table in the Episcopal Church at Winchester¹²⁵ and later, when that church was torn down, his remains were re-interred in the new church, where a tablet was erected to his memory.¹²⁶ In his will dated November 8, 1777,¹²⁷ and proved March 5, 1782,¹²⁸ he devised "all that my undivided sixth part or share, of my lands and plantations in the colony of Virginia, commonly known and called by the name of the Northern Neck, etc., etc., being formerly the estate of the Hon. Alexander Culpeper Esquire, deceased, together with *all other lands and tenements I have, am possessed of, or have a right to*, in the said colony of Virginia", to his nephew the Reverend Denny Martin, on the condition that he should procure an Act of Parliament enabling him to take the name of Fairfax and the Fairfax Coat of Arms. To his nephew Thomas Bryan Martin, he confirmed the gift of the "plantation, or tract of land, I purchased of John Borden containing upwards of 600 acres", and left him besides all the livestock, implements, household goods and furniture "on the plantation whereon I now live, called Greenway Court". Various small legacies were contained in the will, among which was one of £500. to his brother Robert, "to buy him mourning". Denny Martin was made residuary legatee and Thomas Bryan Martin, Peter Hog and Gabriel Jones were named as executors.¹²⁹

It will be seen that by this will Alexander Culpeper's interest, which Lord Fairfax had inherited from his grandmother in fee, was devised by him in the form in which it was received, that is, as an undivided one-sixth share in the proprietorship, and that the separate bequest of his other lands could refer only to those in which he had acquired property in the soil by conveyance and re-conveyance. The undivided five shares in the

¹²⁵ Kercheval, *Hist. of Valley*, 1902, p. 157.

¹²⁶ Howe, *Hist. Coll. of Va.*, 1852, p. 275.

¹²⁷ *Frederick Co. Records*, Will Book 4, p. 583.

¹²⁸ *Hunter v. Fairfax's Devisee*, Munford, I, p. 220.

¹²⁹ *Frederick County Records*, Will Book 4, p. 583.

propriatorship, which he held as tenant in tail under his mother's will, passed on his death, in fee, to his brother, Robert 7th Lord Fairfax, who had succeeded to the title and the Leeds Castle estates in Kent.

DISSOLUTION OF THE PROPRIETORSHIP

The Reverend Denny Martin, D. D. who now assumed the name of Fairfax, was a British subject at the time of Lord Fairfax's death, his status as such having been defined by the Act of May 1779,¹ and was, therefore, not capable of taking under his uncle's will. This at least was the position assumed by the Commonwealth² for in October, 1782, a few months after Lord Fairfax's will had been recorded, an act was passed, which after declaring that "there is reason to suppose the said proprietorship hath descended upon alien enemies", provided that all landholders in the Northern Neck should retain the quit rents then due, sequestered in their hands "until the right of descent shall be more fully ascertained and the General Assembly shall make final provision thereon", and that all quit rents which became due after the passage of the act should be paid into the public treasury and the landholders be exonerated therefor.³ Another act, passed at the same time, after premising that "the death of Lord Fairfax may occasion great inconvenience to those who may incline to make entries for vacant lands in the Northern Neck", provided "that all entries made with the surveyors of the Counties within the Northern Neck shall be held, deemed, and taken as good and valid in law, as those heretofore made under the direction of the said Thomas Lord Fairfax, until some mode shall be taken up

¹ *Rev. Code*, 1819, II, p. 486.

² Justice Story, in the opinion delivered in *Fairfax's Devisee v. Hunter's Lessee*, says "The real fact appears to have been that the legislature supposed that the commonwealth were in actual seizin and possession of the vacant land of Lord Fairfax, either upon the principle that an alien enemy could not take by devise, or the belief that the acts of 1782 had already vested the property in the commonwealth". (*Cranch (U. S.) VII*, p. 626.)

³ *Hening*, XI, p. 128.

and adopted by the General Assembly concerning the territory of the Northern Neck."⁴ It is evident from this legislation that the state proposed at last to put an end to the seignorial rights of the proprietors, but there is no indication of any intention to disturb the title to the manor lands held by Lord Fairfax as his private property.

In the meantime Col. Martin and the other executors of Lord Fairfax's will had protested against the sequestration of quit rents due at the time of his death and in May, 1783, they obtained the passage of an act remedying this injustice.⁵ In this transaction Robert Lord Fairfax's interests were doubtless protected by the executors of his brother's will and later he was represented by Denny Martin Fairfax, acting as his attorney.⁶

The Treaty of Peace with Great Britain, which was signed September 3, 1783, provided that there should be no further confiscation of the property of British subjects, and on the basis of this agreement and its confirmation by an Act of the General Assembly of Virginia, October, 1784,⁷ the Fairfax heirs claimed the revival of their proprietary privileges. In the prosecution of these claims Denny Martin Fairfax came to Virginia and was present when Isaac Hite and John Green, acting for their company, served notice on him, February 21, 1785, of their intention to carry their case to the Court of Appeals,⁸ and the fact that he defended this suit in 1786, shows that at that time he did not consider the legislation of 1785 to have extinguished his title.

The act which now followed concluded the matter of the final disposition of the proprietary interests left uncompleted by the acts of 1782. On October 17, 1785, the Assembly enacted a law which provided, (1) for the transfer of all records, documents and entries for lands in the Northern Neck to the land office of the Commonwealth; (2) that, as no mode had here-

⁴ *Rev. Code*, 1819, II, p. 400.

⁵ *Ibid.*, p. 401.

⁶ *Hite v. Fairfax*, Call IV, p. 56.

⁷ *Rev. Code*, 1819, II, p. 495.

⁸ *Hite v. Fairfax*, Call IV, p. 56.

tofore been adopted for making entries for waste or unappropriated lands since Lord Fairfax's death, such lands should now be granted under the hand of the Governor and seal of the Commonwealth "in the same manner as is by law directed in cases of other unappropriated lands"; (3) that upon grants issued under this act on entries previously made, a composition of thirteen shillings and four pence should be paid to the register of the land office, and (4) "that the landholders within the said district of the Northern Neck shall be forever hereafter exonerated and discharged from composition and quit rents, any law, usage, or custom, to the contrary notwithstanding".⁹ The provisions of this act apparently did not violate the terms of the Peace Treaty as they completed legislation adopted prior to its execution,¹⁰ and the state government, holding this view and considering the question now definitely disposed of, began to issue patents for land in the Northern Neck in the following year.¹¹ The title to the manor lands, on the other hand, had evidently been conceded to the Fairfax heirs, for Col. Martin, acting as attorney for his brother Denny Martin Fairfax, granted leases in the Manor of Leeds from April 14, 1786, until the sale of that property was agreed upon in 1793.¹²

Conflicting claims to the ungranted lands, however, in which the manor lands also became involved, gave rise to litigation of far reaching importance. Gov. Beverley Randolph, for the Commonwealth, April 30, 1789, made a grant of 788 acres of waste or unappropriated land in Shenandoah County to one David Hunter, a well-to-do citizen of the State. Denny Mar-

⁹ *Rev. Code*, 1819, I, p. 350-1.

¹⁰ A comprehensive review of the consecutive acts of the Virginia Assembly after Lord Fairfax's death, by which that body sought to dispose of the proprietary interests, will be found in the opinion delivered by Judge Roane in *Hunter v. Fairfax's Devisee*, Munford I, pp. 228-9.

¹¹ The first grant was made by Gov. Patrick Henry, November 15, 1786, and was recorded in the same book in which the last grant made by Lord Fairfax had been entered. (*W. & M. Quarterly*, VI, pp. 222-6.)

¹² *Marshall's Lessee v. Foley et al.*, Fauquier Co. Record of Land Causes, Book B, p. 267.

tin Fairfax claimed possession of this tract as his uncle's devisee on the ground that the confiscatory acts of 1782 had not been carried into effect prior to the ratification of the Treaty of Peace, and that their provisions, therefore, could not be enforced against him. Hunter, who appears to have been ejected,¹³ brought suit in the Winchester District Court in 1791 for recovery, and on the case being decided against him, April 24, 1794, carried it to the Court of Appeals. Two years later, May 3, 1796, the case was argued before that court but no decision at the time was obtained.¹⁴

In the meantime, while this and other suits over titles to the unappropriated lands were pending, John Marshall, afterwards Chief Justice of the United States, had been in negotiation with the Fairfax heirs for the purchase of the manor lands and what remained of the ungranted lands in the Northern Neck. The period following the Revolution was one of enormous land speculation, the leading figure in which was Robert Morris of Philadelphia, the financier of the war and the most prominent business man of his time. Morris had been a client of John Marshall's, whose brother James M. Marshall afterwards married his daughter, and it is supposed that the purchase of the Fairfax lands was instigated by the Philadelphian. At any rate he undertook to finance the speculation. John Marshall in this transaction represented a syndicate composed of himself, his brother James M. Marshall, his brother-in-law Rawleigh Colston and General Henry Lee, who, however, appears to have dropped out before the deal was completed.¹⁵

An agreement was evidently reached with Denny Martin Fairfax in the matter of this purchase May 17, 1793,¹⁶ but deeds could not be executed until titles to the lands under negotiation had been cleared. A case in which these questions

¹³ *Hunter v. Fairfax's Devisee*, Munford I, p. 223.

¹⁴ *Ibid.*, p. 219 *et seq.*

¹⁵ Beveridge, *Life of John Marshall*, II, pp. 202-4.

¹⁶ The deed by General Philip Martin to the Marshalls and Rawleigh Colston, October 18, 1806, for the Manor of Leeds was made subject to leases executed prior to this date. (*Marshall's Lessee v. Foley et al.*, Fauquier Co. Record of Land Causes, Book B, p. 267. See also Beveridge, *Life of John Marshall*, II, p. 203.)

were involved was pending in the Supreme Court of the United States, and John Marshall now went to Philadelphia to endeavor to have it advanced, so that an early decision could be reached and an immediate and permanent settlement of the matter obtained. In this effort, however, he failed.¹⁷ About this time a great number of petitions from the counties of Hampshire, Hardy and Shenandoah were received by the Assembly, reciting the hardships the settlers sustained through failure to secure patents for their lands owing to the controversy between the Commonwealth and the devisee of Lord Fairfax, and praying for a settlement of the dispute. These petitions were indicative of the general dissatisfaction and unrest throughout this region and the state government decided to act on them and forestall the result of pending litigation, by making a compromise, if possible, with the Fairfax interests. With this end in view the Assembly passed a resolution in the following terms: "That in case the devisees of Lord Fairfax, or those claiming under them, will relinquish all claims to lands supposed to lie within the Northern Neck, which were waste and unappropriated at the time of the death of Lord Fairfax, that it would be advisable for this Commonwealth to relinquish all claim to any lands specifically appropriated by the said Lord Fairfax to his own use, either by deed or actual survey".¹⁸ As no confiscation of lands held under patents from Lord Fairfax had been attempted in the various acts which sought to extinguish the seignorial title of his heirs, this proposal only confirmed a title to the manor lands, under the designation of "lands specifically appropriated by Lord Fairfax to his own use", which had already been conceded, and apparently secured the unappropriated lands to the state beyond the chance of adverse judicial decisions. The Marshall syndicate, on the other hand, recognized in the proposed compromise an opportunity to obtain an immediate settlement of the disputed titles even if it restricted the extent of their purchase, and decided to accept the terms of the resolution. John

¹⁷ Beveridge, *Life of John Marshall*, II, p. 206.

¹⁸ *Rev. Code*, 1819, I, p. 352.

Marshall, accordingly, November 24, 1796, wrote a letter to the Speaker of the House of Delegates, in which he, "as one of the purchasers of the lands of Mr. Fairfax and authorized to act for them all", acceded to the resolution of the Assembly and agreed to execute deeds to the unappropriated lands, as soon as he received a conveyance from Denny Martin Fairfax, "provided an act passes during this session, confirming, on the execution of such deeds, the title to those claiming under Mr. Fairfax, to lands specifically appropriated and reserved by the late Thomas Lord Fairfax, or his ancestors, for his or their use". This agreement was confirmed by an act of Assembly passed December 10, 1796,¹⁹ and on Robert Morris being advised of the settlement, he wrote John Marshall from Philadelphia, "altho you were obliged to give up a part of your claim yet it was probably better to do that than to hold a contest with such an opponent [the State of Virginia]. I will give notice to Mr. Jas. Marshall of this compromise".²⁰

While these negotiations were pending, Robert 7th Lord Fairfax died, July 15, 1793,²¹ and by his will, dated August 15, 1791, left all his property both in England and America in fee to his nephew Denny Martin Fairfax,²² while the barony, shorn of its lands, descended to Bryan 8th Lord Fairfax, a younger son of William Fairfax of Belvoir, Fairfax County, Virginia. The Denton estate in Yorkshire had passed out of the family and the subsequent holders of the Fairfax title had made no provision from their Culpeper inheritance for its future support.

Before the purchase of the Northern Neck lands was completed Robert Morris found himself in serious financial difficulties and unable to help the Marshalls, but James M. Marshall finally negotiated a loan in Europe and January 25, 1797, was able to make a payment of £7700. to Denny Martin Fairfax.²³

¹⁹ Ibid.

²⁰ Beveridge, *Life of John Marshall*, II, p. 209.

²¹ Burke's *Peerage*, 1914, p. 754.

²² *Proprietors*.

²³ Beveridge, *Life of John Marshall*, II, p. 210.

The latter²⁴ then executed a deed under date of August 30, 1797, by which he conveyed to James M. Marshall "all and every those divers tracts, pieces and parcels of land, being part and parcel of the proprietary of the Northern Neck of Virginia, and all and every the now remaining real estate and beneficial right and interest of him, the said Denny Martin Fairfax, of whatsoever nature the same may be, of, in, to, or to arise out of, or from, the same; and all or any other lands within the Commonwealth of Virginia, with their, and every of their rights, members and appurtenances; save and except, nevertheless, etc., *the Manor of Leeds and all and every tract, pieces or parcels of land lying within or reputed to be part or held of that manor; and all and every quit rents reserved on grants of and for all and every part of the lands of the said Northern Neck*".²⁵ This conveyance put the Marshalls in a position to discharge their obligation to the Commonwealth under the compromise agreement of 1796, and perfected their title to the lands specifically appropriated to Lord Fairfax's use. The transaction also gave James M. Marshall individual title to all the manor lands except those included in the Manor of Leeds.²⁶ Whether this arrangement had been agreed upon by the Marshall partners at the outset, or whether Mr. Morris's failure to fulfill his promise of assistance and the resulting difficulty of financing the undertaking, had caused John Marshall to modify his original plans, does not appear. The manor lands not reserved by the deed, were the South Branch Manor, containing, as we have seen, 54,596 acres, and certain small manors and farms aggregating 4,363 acres, which, from time to time, had been conveyed to Thomas Bryan Martin and reconveyed by him. The purchase also included the town of Winchester.²⁷

²⁴ It appears that Denny Martin Fairfax assumed the Fairfax name at the time of his uncle's death but did not procure an Act of Parliament as stipulated in the will. On John Marshall's insisting on the observance of this formality before agreeing to accept title from him, he finally secured the act in 1797.

²⁵ *Marshall v. Conrad*, Call V, p. 370.

²⁶ James M. Marshall and his wife Hester, made conveyances of land in Shenandoah and Berkeley counties from November 12, 1798. (*Fredrick Co. Records*, Deed Book 3, p. 634.)

²⁷ *Marshall v. Conrad*, Call V, p. 370.

Denny Martin Fairfax soon after this transfer died in England, and by his will, dated May 19, 1798, and proved before the Prerogative Court of Canterbury, August 11, 1800, left all the real estate in "the colony or state of Virginia" devised to him by his uncle Thomas 6th Lord Fairfax "which shall remain undisposed of at the time of my decease and which I now have power to dispose of, together with all manner of rights, royalties, rents, arrears of rents, etc., to the same belonging", to his youngest brother General Philip Martin, his heirs and assigns forever. He devised certain lands in England to his three sisters and left all the rest of his property in Kent and Sussex, including Leeds Castle, to General Martin. To his brother Thomas Bryan Martin he gave a small legacy, stating in the will "that he [Thomas Bryan Martin] had otherwise been amply provided for".²⁸ By action subsequent to the date of this will James M. Marshall was made his administrator in America, with the will annexed, apparently for the purpose of collecting arrears of rents.²⁹ The lands referred to in his will as having been acquired by devise from Thomas 6th Lord Fairfax and remaining undisposed of, were the residue of the Manor lands or, in other words, the Manor of Leeds. Alexander Culpeper's one-sixth interest, also inherited by Denny Martin Fairfax from Thomas 6th Lord Fairfax, and Catherine Culpeper's five-sixths interest inherited by him from Robert 7th Lord Fairfax, had been included in the conveyance of 1797 to James M. Marshall.

At this time a number of cases were pending in the Court of Appeals over titles to Northern Neck lands, in one of which property included in James M. Marshall's recent purchase was involved. In this case, *Marshall v. Conrad*, possession of a lot in the town of Winchester was in dispute, Marshall claiming the right to recover the property because of non-payment of rent and the appellee contesting Marshall's title. The case had been decided against Marshall in the lower court but the judgment of that court was now reversed, one judge, however,

²⁸ *Marshall's Lessee v. Foley et al.*, Fauquier Co. Record of Land Causes, Book B, p. 267.

²⁹ Beveridge, *Life of John Marshall*, IV, p. 151.

dissenting on the ground that the rent in arrears was a quit rent reserved as an acknowledgment of tenure and that the lot could not be considered to have been specifically appropriated to Lord Fairfax's use. The opinion of the majority of the Court, however, declared, "it is unnecessary to pursue the enquiry; because the act of compromise in 1796, made during the pendency of a suit in this court, where all the points arose, has put an end to the controversy. For it makes Denny Fairfax capable; and relinquishes to the appellant all claim, on the part of the Commonwealth, to lands which had been appropriated by Lord Fairfax; and it is impossible to maintain, that the lot in question, which he had actually sold and was in the receipt of an annual rent for, had not been appropriated". Judgment for the appellant was accordingly entered October, 1805.³⁰ This decision, which applies the terms of John Marshall's compromise to a question of title in the town of Winchester in no way connected with the Manor of Leeds, establishes the fact that all the lands specifically appropriated to Lord Fairfax's use were included in the purchase which John Marshall referred to in his letter to the Speaker of the House of Delegates, on which the compromise act was subsequently based.

The financial burden entailed by the purchase of the Fairfax lands was pressing heavily on the Marshall brothers, and John Marshall, against his policy, was forced to accept the appointment offered to him by President Adams, May 31, 1797, as one of the envoys from this government to France. Thomas Jefferson wrote on Marshall's return the following year, that "had he not been appointed minister to France, he was desperate in his affairs and must have sold his estate [the Fairfax purchase] & that immediately".³¹ The salary he received for this mission, however,³² and other sums raised by his brother and brother-in-law enabled him finally to complete the payments

³⁰ *Marshall v. Conrad*, Call V, p. 406.

³¹ Beveridge, *Life of John Marshall*, II, p. 211.

³² The amount paid Marshall by the U. S. Government for this service was \$19,963.97. (*Ibid.*, p. 372.)

for the residue of the manor lands, and on October 18, 1806, Lieutenant-General Philip Martin, described as of Leeds Castle, in the County of Kent, conveyed to Rawleigh Colston, then of Frederick County, John Marshall and James Markham Marshall, of the City of Richmond, the three tracts which constituted the Manor of Leeds and the lands held therewith. The amount paid for the 160,382 acres included in this purchase, was £14,000., or about one shilling and nine pence per acre. The sale was made subject to leases executed prior to May 17, 1793, and the property was charged with the payment of three annuities of £100. each, to the second child, third child, and fourth child of Bryan 8th Lord Fairfax, as provided in a codicil to Lord Fairfax's will, dated November 27, 1779.³³ This transaction completed the purchase of the manor lands by the Marshall syndicate.³⁴ The Fairfax heirs, although they had not definitely written off their claim to the obsolete quit rents, did not again prosecute it, and the only issue which remained and was still involved in litigation, was the title to certain tracts of the unappropriated lands.

One of these cases was that of *Hunter v. Fairfax's Devisee* which, it will be remembered, had first been argued before the Court of Appeals in 1796. Now, on the appellant's demand, it was again taken up and re-argued after a lapse of thirteen years. In this case the title of the Fairfax heirs to a tract of the ungranted lands was in dispute, but since the suit was first brought the compromise act of 1796 had apparently disposed of the question and Denny Martin Fairfax in 1797, had conveyed his holdings in the Northern Neck, the manor of Leeds only excepted, to James M. Marshall, whom he had later named as the administrator in America of his will. When the Marshalls had, under the conditions of the compromise,

³³ *Marshall's Lessee v. Foley et al.*, Fauquier Co. Record of Land Causes, Book B, p. 267.

³⁴ A partition of the land included in this purchase was made between the Marshall brothers and Rawleigh Colston, October 5, 1808, the latter receiving the tract lying on the west slope of the Blue Ridge between Ashby's Gap and Snicker's Gap, containing 26,535 acres, and another tract described as adjoining Ashby's Gap and containing 13,465 acres, which was evidently the Goony Run Manor. The Marshalls retained the Manor of Leeds as originally surveyed. (*Ibid.*)

executed deeds extinguishing Denny Martin Fairfax's title to the unappropriated lands, this tract, pending the result of litigation, had presumably not been included, and the Fairfax heirs, or their assignee James M. Marshall, had continued in possession after Hunter's ejectment. It would be difficult, otherwise, to explain why the plaintiff in the suit before the Winchester Court had not taken possession when the agreement of 1796 was executed, or what interest General Martin, or his representative, now had in defending this suit and in subsequently taking appeals to the Supreme Court of the United States.

The state court finally delivered judgment in *Hunter v. Fairfax's Devisee*, April 23, 1810. Judge Roane, in the opinion pronounced by him, held that the acts of Assembly passed subsequent to Lord Fairfax's death and prior to the Treaty of Peace, had definitely confiscated the lands of his devisee, whose status was that of an alien enemy, and that the act of 1785 constituted a sufficient inquisition of escheat or forfeiture, the terms of the Treaty of Peace being inapplicable to a condition antecedent to its ratification; but that, in any case, the compromise of 1796 disposed of the matter and confirmed Hunter's title. Judge Fleming, on the other hand, although concurring in his colleague's opinion that the act of 1796 was conclusive, held that except for it the appellee would have been entitled to judgment, as the acts of 1782 had not been completed by the inquest of office specifically provided for in the act entitled "An Act concerning Escheators", passed in May, 1779. "At this period (October, 1782)", he said, "the legislature was quite undetermined on the subject of this territory, and had done nothing that squinted at an inquisition of office; and, therefore there was, from any act of government at that time, scarce a semblance of a title vested in the Commonwealth; as the clauses just above recited seem to have been enacted merely for the convenience of those who were resident, and had acquired permanent titles to their lands within the territory, and also of those who were taking steps to acquire titles to lands therein." The judgment of the lower

court was thereupon reversed and a decision entered in favor of Hunter.³⁵

In this and other similar cases decided by the Court of Appeals, the seignorial privileges of the Fairfax heirs were not at issue. Titles to specific tracts of land alone were involved and, in all instances, the decision was governed by the provisions of the act of 1796, which was considered by the appellate court of the state to have definitely effected the partition of the ungranted lands and the specifically appropriated lands of the Northern Neck between the Commonwealth and the Fairfax interests. The decisions of the Supreme Court of the United States on appeals from the state court, therefore, affected only titles in litigation and did not involve the general principle of proprietary privilege, nor do they appear to have been accepted in Virginia as generally re-opening the controversy over Northern Neck titles, a result which today would inevitably have followed.

The case of *Hunter v. Fairfax's Devisee* was taken to the Supreme Court, under the title of *Fairfax's Devisee v. Hunter's Lessee*,³⁶ on a writ of error probably obtained by James M. Marshall as administrator of Denny Martin Fairfax's will, acting for Philip Martin or, in the latter's name, in his own interest,³⁷ and on March 15, 1813, Justice Story delivered the opinion of that court. John Marshall, now Chief Justice, had refused to sit during the arguments or to participate in the conclusions of his associates, stating that because of "an opinion formed when he was very deeply interested [alluding to the partition of Lord Fairfax's lands], he could not consistently with his duty and the delicacy he felt, give an opinion in the cause".³⁸ The court held that Lord Fairfax had absolute property of the soil in the land in controversy, that is, in the unappropriated lands; that Denny Martin Fairfax was capable of taking by devise under his uncle's will and that his title

³⁵ *Hunter v. Fairfax's Devisee*, Munford I, p. 219 et seq.

³⁶ Cranch, (U. S.) VII, p. 603.

³⁷ *Hunter v. Fairfax's Devisee*, Munford I, p. 218 and Beveridge, *Life of John Marshall*, IV, p. 153.

³⁸ *Ibid.*, pp. 153 & 155.

could only be divested by an inquest of office; that by the various acts of the Virginia legislature no inquest of office and seizure could be considered to have been taken; that Denny Martin Fairfax was, therefore, in complete possession when the suit then before the court was commenced in the Winchester court in 1791; and that "that possession and seizin continued up to and after the treaty of 1794,"³⁹ which being the supreme law of the land, confirmed the title to him, his heirs and assigns, and protected him from any forfeiture by reason of alienage". Judgment was then entered reversing that of the Virginia Court of Appeals and affirming that of the District Court of Winchester.⁴⁰ with an order remanding the case to the former court "with instructions to enter judgment for the appellant Philip Martin".⁴¹ In this decision, it will be observed, the Virginia Act of Assembly of 1796 was totally ignored, although counsel for the appellee in his argument insisted that it should be considered.⁴² Disregard of this statute and the application of the Treaty of 1794 to the case, constituted the points on which this court differed from the Court of Appeals and gave rise to Chief Justice Marshall's comment, made some years later in a letter to his brother, that "the case of Hunter & Fairfax is very absurdly put on the treaty of '94".⁴³

On receiving the mandate of the Supreme Court, the judges of the Court of Appeals were highly incensed and after prolonged argument decided unanimously that the act of Congress which conferred on the Supreme Court of the United States appellate jurisdiction over the highest tribunal of a state, was unconstitutional. They accordingly refused to obey the order.⁴⁴ Whereupon General Philip Martin and James M.

³⁹ The Treaty of London, negotiated by John Jay in 1794, confirmed and amplified the provisions of the Treaty of Peace in respect to confiscations of the property of British subjects.

⁴⁰ *Fairfax's Devisee v. Hunter's Lessee*, Cranch (U. S.) VII, p. 603 *et seq.*

⁴¹ *Hunter v. Martin*, Munford IV, p. 6.

⁴² Beveridge, *Life of John Marshall*, IV, p. 156.

⁴³ *Ibid.*, p. 164.

⁴⁴ *Hunter v. Martin, Devisee of Fairfax*, Munford IV, p. 1, *et seq.*

Marshall took the case again to the Supreme Court on another writ of error where it was argued under the title of *Martin, Heir at Law & Devisee of Lord Fairfax, v. Hunter's Lessee*.⁴⁵ The court's opinion, all the justices concurring, was again delivered by Justice Story. It was a long review of the constitutionality of the act under which the Supreme Court's jurisdiction was created, followed by a statement that although the case "decided on a former record is not now before the court", from "motives of a public nature" the court would re-examine its former decision. The opinion then discussed the previous decision in the following words: "It has been asserted at the bar that, in point of fact, the court of appeals did not decide either upon the treaty or the title apparent upon the record, but upon a compromise made under an act of the legislature of Virginia. If it be true, as we are informed, that this was a private act, to take effect only upon a certain condition, namely, the execution of a deed of release of certain lands, which was matter *in pais*, it is somewhat difficult to understand how the court could take judicial cognizance of the act, or of the performance of the condition, unless spread upon the record. At all events, we are bound to consider that the court did decide upon the facts actually before them. The treaty of peace was not necessary to have been stated, for it was the supreme law of the land, of which all courts must take notice. And at the time of the decision in the court of appeals and in this court, another treaty had intervened, which attached itself to the title in controversy; and of course must have been the supreme law to govern the decision, if it should be found applicable to the case. It was in this view that this court did not deem it necessary to rest its former decision upon the treaty of peace, believing that the title of the defendant was, at all events, perfect under the treaty of 1794". The judgment of the Court of Appeals rendered on the first mandate of the Supreme Court was then reversed and the judgment of the District Court of Winchester in Hunter's favor, again affirmed.⁴⁶

⁴⁵ Wheaton, I, p. 304.

⁴⁶ *Martin v. Hunter's Lessee*, Wheaton I, p. 304 *et seq.*

This decision practically ended the last important controversy over the Northern Neck lands and incidentally asserted the authority of the Supreme Court of the United States over the highest court of any state in all cases in which the Constitution, national laws and treaties were involved.⁴⁷ The decisions of the Supreme Court, however, cannot be regarded as materially affecting the partition of Lord Fairfax's estate, which must be considered to have been completed by the compromise act passed by the General Assembly of Virginia in 1796; an act afterwards interpreted by the Court of Appeals of that state as conclusive in its application to all questions of title arising from the confiscatory acts which followed the Declaration of Independence.

⁴⁷ Beveridge, *Life of John Marshall*, IV, p. 166.

18TH CENTURY MAPS

NORTHERN NECK MAP—1736-1737

The first of the 18th Century Maps on which the topography of Fauquier is indicated is the Northern Neck Map of 1736-1737, entitled "The Courses of the Rivers Rappahannock and Potowmack", drawn by William Mayo from surveys made to establish the boundaries of Lord Fairfax's grant. This map, in addition to the rivers and streams, shows the Blue Ridge and Cobbler Mountains, and although the points at which travel crossed the northwestern boundary of the county are designated by the location of Ashby's Bent and Calmose (Manassas) Gap, no roads are shown. Prince William County is marked and the places named are the "Manor of Leeds", lying on the eastern slope of the Blue Ridge, and "Brent Town", between Broad Run and Cedar Run.

FRY AND JEFFERSON'S MAP—1751

The beginning of Fauquier's road system appears on the next map of this region published by Joshua Fry and Peter Jefferson in 1751. This map under the title of "A Map of the most inhabited part of Virginia containing the whole Province of Maryland, with part of Pennsylvania, New Jersey and North Carolina" includes practically the same topographical features as occur in the Northern Neck Map but records the progressing settlement of the country by placing individual landholders, such as "Hedgeman", "Beverly" and "Carter", and establishing points on the roads, some of which can be recognized in the present geography of Fauquier.

The road from Falmouth to Winchester, which is still the county's main artery of travel, on this map traverses the terri-

SECTION OF FRY & JEFFERSON'S MAP, 1751

tory of Fauquier by Elk Run Church, Harding's Ordinary, Germantown, Branskill's Parsonage, Nevill's Ordinary, Watts' Ordinary and Ashby's Gap. The distances between these stations, which are given in figures, conform closely to distances by scale on the modern maps making it possible to locate approximately such places as no longer exist and of which no record can be discovered.

In the identification of these stations some interesting facts have been developed.

Elk Run Church, 21½ miles from Falmouth.

This was one of the two churches in Hamilton Parish at the time the Fry and Jefferson map was published and is thus described by Bishop Meade: "Elk Run church was about fifteen miles, I think below Fauquier Court House, on the road to Fredericksburg, upon a small stream from which it took its name. It was a substantial brick church, cruciform, I believe. I am not certain that the roof was on it when I first saw it, in 1811. Its walls continued for many years after this and I saw them gradually disappear during my annual visits to the Convention".

Harding's Ordinary, 1½ miles from Elk Run Church.

Martin Hardin was granted license to keep ordinary by the Fauquier County Court August 23, 1759, and the site of his house has been established as that of the present colored settlement adjacent to Blackwell's School (col'd.), shown on the map of 1914. Martin Hardin left this neighborhood prior to 1774 and his son Mark, who before 1802 had moved to Washington County, Kentucky, on May 1st of that year, deeded a tract of 500 acres, including the ordinary site to Joseph Blackwell (D. B. 7, p. 438). Joseph Blackwell's widow, Elizabeth Blackwell, by her will proved May 27, 1859, emancipated her slaves and directed that the proceeds of her estate be applied to their benefit (W. B. 28, p. 133). The present colored settlement is doubtless traceable to this disposition of her property.

Germantown, 4 miles from Harding's Ordinary.

Germantown, which is noted on the map of 1914, was originally settled by a party of Palatine Germans. Through the Baron de Graffenreid, Governor Spotswood engaged iron workers from Westphalia to operate his furnaces in Orange, then Essex County. These people arrived in April, 1714 and settled at Germanna, from which place a party removed to Germantown about the year 1720. In 1724 a tract of 1800 acres of land on Licking Run was granted to them by Lord Fairfax. Near this place Chief Justice John Marshall was born in 1755.

Branskill's Parsonage, 3 miles from Germantown.

The Rev. James Keith, minister of Hamilton Parish, was succeeded on his death in 1751 by the Rev. Joseph Brunskill and the parsonage occupied by him at the time the Fry and Jefferson map was published was conveniently situated between the two churches of his parish, Elk Run, already referred to, and St. Mary's, better known as the Turkey Run Church. The latter stood on the then Rappahannock-Dumfries road, about a mile and a quarter below the present site of Warrenton. Bishop Meade states that this Brunskill was a notorious evil liver, "being given to intemperance and other vices".

Nevill's Ordinary, 13 miles from Branskill's Parsonage.

The land on which this ordinary was established belonged at the time to Joseph Neavil, being part of a tract on the head of Cedar Run, patented by John Hudnall of Northumberland County in 1728. The property passed from Joseph Neavil to his son George Jr. and from him to Joseph Smith. From the Smith family it passed to Moses Sudduth then to John Walden, then to Robert Beverley and from his family through F. W. Kelly to Robert C. Barclay, its present owner. It is shown under the name of "Rockingham" on the map of 1914.

Joseph Neavil's place, however, was not the Nevill's Ordinary which appears on subsequent 18th Century maps and

which is now recognized as the stopping place of George Washington and other notables who have left journals of their travels. The ordinary referred to by them was kept by one George Neavil, the site of whose house, by clever research work on Mr. Alfred B. Horner's part, has been traced to the present village of Auburn. We find records of licenses to this George Neavil in 1759, 1761 and 1770. His will was proved June 27, 1774, and although it is not possible to ascertain when his first license was obtained, owing to the incompleteness of the Prince William County records, it is altogether likely that in 1759 he had been engaged in this business for a number of years. We also find that when the county was organized George Neavil was appointed surveyor of the road from his house to St. Mary's Church, about four miles distant on the Dumfries Road. After his death the ordinary was kept by his wife Mary Neavil, who obtained a license in 1775. The place on which this tavern stood is later described in deeds as situated on the road from Fauquier Court House to Dumfries and on the Rogues road, the name locally given to the Carolina road. George Neavil had no sons by this marriage and on his wife's death his son-in-law Ambrose Barnett continued the ordinary, obtaining licenses in 1778, 1780 and 1792. A portion of Neavil's property has been traced to Benjamin R. Laws and is shown in his name on Garden's Map of 1876. It eventually passed to James W. Woodward, its present owner. Neavil's Mill, on Cedar Run, is still standing and tradition identifies a very old house at Auburn which has been deserted for many years, as the original tavern. Before Fauquier Court House was established Auburn was an important cross-roads. The road from Falmouth to Winchester originally followed this route and even earlier than that travel from the upper Rappahannock region to Dumfries on Quantico Creek, then the county seat of Prince William, passed this way. The road from the Carolinas north also ran through Auburn crossing the county line at Greenwich and its use by stockmen made Auburn a profitable tavern site long after the Falmouth-Winchester road had been diverted to serve Fauquier's new Court House.

Watts' Ordinary, 12 miles from Nevill's Ordinary.

This resort of travellers on the Falmouth-Winchester road, judging from its distance from Germantown on the Fry and Jefferson map, must have been located at the present site of Delaplane, a theory which is supported by the fact that although no license was granted to any Watts to keep ordinary after the organization of Fauquier County, a Thomas Watts in 1761 was appointed "surveyor of the road in the room of David Barton" and David Barton at the following court obtained a license to keep ordinary. In 1761 John Wood was appointed surveyor of the road from "Watts' to the head of Goose Creek," and later in the same year was appointed surveyor "from Thomas Watts to the *top of the ridge* on the Manassas road"; both points, for the purpose of road maintenance, being within reasonable distance of Delaplane.

Ashby's Gap, 8 miles from Watts' Ordinary.

Ashby's Gap, by which the Falmouth-Winchester road passed into the Valley, completes the stations on Fry and Jefferson's map in the territory that was afterwards Fauquier.

The Fry and Jefferson map also shows a road from Belhaven (Alexandria) to Winchester by Williams' (Snicker's) Gap with West's Ordinary as the intermediate station. The Bull Run Mountains are not designated but later maps place West's at the head of this range in the neighborhood of the present village of Aldie, in Loudoun County.

JOHN HENRY'S MAP—1770

This map, made by the father of Patrick Henry and entitled "A new and accurate Map of Virginia", is the first on which the name of Fauquier appears. The position of the Court House is shown, but with the exception otherwise of Chapman's Mill, at Thoroughfare Gap, and Brent Town, in the southeastern corner of the county, it is devoid of place names. The Bull Run Mountains are indicated with West's, in Loudoun County, at their northern extremity. No roads are laid down, although two, crossing the eastern boundary line of the county, are suggested, probably the Charlottesville-Alexandria road and the Carolina road.

ANBUREY'S MAP—1779

Under the name of "Map for the interior travels through America delineating the march of the Army", Lieutenant Anburey published this map with his *Travels Through North America*, and in it he indicates the line of march of the British and Hessian prisoners from Saratoga to Charlottesville. It shows the Carolina road, "Nevil's Plant." and "Farquier Court House".

THOMAS JEFFERSON'S MAP—1787

This map, with some features added, is included in Jefferson's *Notes on Virginia*, 1801, and, in respect to Fauquier, is notable chiefly for its blunders. It unfortunately has been widely copied and its errors have caused much confusion. On it the Bull Run Mountains and the Rappahannock Range are apparently combined, with a curious distribution of other topographical features and places in relation to them. The headsprings of the lower tributaries of the Occoquan, for instance, with such places as Germantown and Elk Run Church are shown in Prince William County east of the mountains; Nevil's Ordinary is placed at their northern extremity with Watts' Ordinary well to the north in Loudoun County but in its correct relative position to Ashby's Gap, which is also assigned to Loudoun. West's Ordinary appears 20 miles to the north of these mountains, instead of directly at their head, while the name of Fauquier without heed to the county's topography, is assigned to the neck of land between the Hedgeman and Thornton Rivers. In drawing this map Mr. Jefferson evidently took the streams and place names from the Fry and Jefferson map which did not show either the Bull Run or Rappahannock Mountains. He afterwards filled in these features from other maps and in so doing failed to coordinate his data.

PRICES TO BE CHARGED BY KEEPERS OF ORDINARIES, 1760*

The Court doth set & rate the following Prices to Liquor,
Diet etc. at and for which the several Ordinary keepers are to
sell for the ensuing year viz:

Rum the Gallon	.12.6
French Brandy the Gallon	12.6
Peach or Apple Brandy, the Gallon	8.0
For a Quart of Rum Punch with Loaf Sugar	1.3
For a Quart of Brandy do. with do.	1.0
Port Wine the quart bottle	2.6
Sherry the Quart Bottle	4.0
Madeira Wine the quart	3.6
Tyall Wine the Quart	2.0
Claret the Quart Bottle	5.0
Virginia Strong Beer, the quart bottle	1.0
English Strong Beer Quart Bottle	1.3
For a hott diet	1.0
For a cold do.	0.8
For a nights Lodging with clean Sheets	0.6
Pasturage for a Horse 24 Hours	0.6
Stableage & Fodder for Horse 24 Hours	0.6

* Extract from act for regulating ordinaries, etc. "The justices of every county court within this Commonwealth shall, at their March court, or at any other court, set the rates and prices to be paid at all ordinaries within their respective counties, for liquors, diet, lodging, provender, stableage, fodder, and pasturage, and may increase or lessen the rates as often as they shall see cause, but shall not fail to fix the rates at least twice in a year, . . . and every ordinary keeper shall, within one month after the rates, so set or from time to time altered, set up a copy of the rates aforesaid, attested by the clerk of the court, in some public entertaining room, in his tavern, to be placed not more than six feet above the floor." (*Rev. Code*, 1819, II, pp. 281-2.)

PRICES TO BE CHARGED BY KEEPERS OF ORDINARIES 73

For a gallon of Corn or Oats	0.6
Virginia Cyder the Gallon	1.0

And so in proportion for a greater or lesser Quantity. And it is Ordered that when Soldiers are marching through this County or any person travelling with an Express on his Majesty's Service and are supplied at an Ordinary with Provision, Lodging, Liquors etc., that the Ordinary Keeper make his Charge according to the above Rates & from thence deduct a fifth part.

PLAN OF WARRENTON

SHOWING SURVEYS OF 1790 AND 1811.

The original plan of the town of Warrenton published in this number is reproduced from a drawing made by the late Richard N. Brooke whose data was obtained from deeds and other records. His map shows the first survey of 1790 and the survey made in 1811 after the town was incorporated.

Of the early roads only the "Old Rappahannock" Road and Churchill's Road were located by Mr. Brooke, but Mr. Alfred B. Horner, who assisted him in his investigations, has been able to indicate very closely the situation of the other roads which appear on the plan as now published.

It must be understood that the purpose of this map is to show the progressive development of the town and that the road system indicated existed before the town was laid off. As each survey was made the lines of the old roads, as they passed through the town, were changed to conform to the new streets.

Fauquier County was created May 1, 1759, by an act of Assembly passed February 22nd of that year. The first court for the new county was held May 24th, probably at the house of John Duncan. At that court a recommendation was addressed to the Governor "that the plantation of John Duncan is the proper and convenient place for the Court House of this county to be established on". It is known that the next court, June 28, 1759, was convened at John Duncan's house, but, in a writ directed to the justices of the county, the Governor ordered that the court adjourn to the house of William Jones on the lands of Richard Henry Lee, and this was accordingly done. Presumably, therefore, John Duncan's house was not on Richard Henry Lee's land, which consisted of 4200 acres and which, in the grant by Catherine Lady Fairfax to his

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father Thomas Lee, November 28, 1718, is described as situated in Richmond County, on the head of Great Run "and upon the heads of the Several branches issuing out of the Main South West Branch of Occoquan River, commonly known by the names of Cedar Run, Turkey Run and Licking Run and near the foots of the broken hills or small mountains". Tradition ascribes the position of Duncan's house to Fayetteville, about seven miles south of the site of the first Court House, and this may have been its true location.

The first court house and prison were built in 1760 on two acres of land belonging to Richard Henry Lee, which were laid off for the purpose by order of a court held July 26, 1759, at which Lord Fairfax, the proprietor of the Northern Neck, presided. These buildings were constructed of wood for temporary use, and stood, as shown on the map, between Culpeper Street and the Cemetery. The second court house of brick was completed in 1762 and was situated in the rear of Mr. Lucien Keith's house on the east side of Culpeper Street.

The position of the first and second court houses suggested the location of the Court House settlement but the nucleus of the town, as surveyed in 1790, was a building known as the "Red Store", established as a trading post by Alexander Cunningham, of Falmouth, prior to 1764. It was situated on the road from the Rappahannock River to Dumfries, a port on the Potomac from which the upper country was at first supplied. Much earlier than this the Turkey Run Church had been built on the same road not far from the eventual site of Cunningham's store. The original road from Falmouth to Winchester by Elk Run, Germantown and Neavil's Ordinary (Auburn), had been deflected at Germantown to serve the new Court House and, at the time the Red Store was built, probably intersected the Rappahannock-Dumfries Road at that point after passing Turkey Run Church by the new route. Churchill's Road, shown on Mr. Brooke's map, existed as early as 1768 and at that date was the road from the Court House to Churchill's Mill (White's Mill on the Map of 1914) and to the house on the same property, now "Bellair". This road was chosen later as the route of the Alexandria Turnpike

built in 1827, the original line of the old Culpeper-Alexandria Road passing over Academy Hill as shown on this map.

An early feature of the Court House settlement was a tavern kept by one Andrew Edwards, license for which was granted him July 26, 1759.

The brick Court House built in 1762 sufficed for public needs until after the Revolution, when the County purchased Thomas Maddux's life lease of the present site, May 26, 1790, for 15 shillings,* "for the purpose of erecting thereon a Court House, Prison, Pillory, whipping post and stocks". These buildings when completed were said to be "spacious and handsome and erected at an expense estimated at \$30,000.00". The Court House on this site has been twice destroyed by fire and twice rebuilt, once in 1853 and again in 1889.

By direction of Richard Henry Lee a town was laid off in relation to the new Court House, by James Routt, December 4, 1790, which consisted of twelve lots of one-half acre each. Of these, Lot No. 2 included the ground on which the Red Store stood and is the site of the present Town Hall (Municipal Building). Lot No. 3, on which the Presbyterian Church now stands, was first owned by William Horner, while Lot No. 4, on which Mr. Grenville Gaines' house is situated, was originally owned by Dr. Gustavus B. Horner.

Under the name of Main Street a section of the Dumfries-Rappahannock Road, straightened for the purpose, divided the town. This street was 55 feet 7¼ inches wide by this survey and was intersected by cross streets 30 feet wide, into one of which the old Alexandria-Culpeper road was diverted, which then proceeded west by Main Street.

The town was then known as Fauquier Court House although soon afterward it received the name of Warrenton. In a deed dated August 11, 1797, it is spoken of as "Fauquier Court House now called the Town of Warrenton".

Under the name of Warrenton, in honor of the hero of

* Title in fee simple to this property was later obtained from Martin Pickett or his heirs.

Bunker Hill,* the town was incorporated January 5, 1810, and May 8, 1811, it was laid off to include seventy-one acres by a committee consisting of Edward Digges, John Scott, William Horner, John A. W. Smith, George B. Pickett, George Pickett, Jr., John Kemper and Daniel Withers, who were appointed for the purpose by the General Assembly. In this survey what remained of the old roads was absorbed by the streets of the new town. The Winchester road was straightened to conform to the new plan and became the Winchester Street of today; the old Rappahannock Road took the line of Jail Street and became what is now known as the Waterloo Turnpike; the road to Culpeper Court House was changed to Culpeper Street, and Churchill's Road, shown as Court Lane on the plan, was adopted as the line of the new Alexandria Turnpike.

* About 1777 Hezekiah Balch, who had graduated at Princeton in 1766, maintained for several years a classical school in Fauquier (Alexander, *Princeton College in the XVIII Century*). In 1788 the "Warren Academy" was in active operation on lands dedicated by Richard Henry Lee "at or near the court house in the county of Fauquier," and was then incorporated (Hening, xii, 685). As late as 1802 the English novelist, John Davis, proposed to establish a school at Occoquan which he hoped might rival "the renowned academy in the vicinity of Fauquier court house." (John Davis, *Travels*.) It seems probable, from these scraps of evidence, that Warrenton took her name from the pre-existing "Warren Academy" and it may be that the sentiment which actuated the choice of the name of a Massachusetts revolutionary hero for a Virginia town could be traced to the school master, Balch, whose own name suggests a Massachusetts origin.

ROBERT EDEN SCOTT

A BIOGRAPHICAL SKETCH.

BY ROBERT E. SCOTT.

Robert Eden Scott, of Fauquier, came of a line of able men of letters.

The first of his family to arrive in America was the Rev. Alexander Scott, a minister of the Church of England, who came from Scotland some time prior to the Revolution, and became the rector of Overwharton Parish, Stafford County, Virginia. He is said to have possessed considerable property and established his seat in Stafford County upon an estate called "Dipple", where he resided until his death on April 1, 1738, at the age of 53.

He lies at "Dipple", where his grave, preserved by the descendants of his brother, may still be seen.

Having never married, he invited his younger brother, James Scott, likewise a clergyman of the Established Church, to come over and live with him as his heir. This invitation was accepted, and afterwards the Rev. James Scott became the first rector of Dettingen Parish, Prince William County, Virginia.

In a letter from William & Mary College, under date of April 26, 1745, recommending him to this appointment, he is spoken of as a man whose merit had been so long known as that it need not be dwelt upon. He remained as rector of this parish until his death 37 years thereafter.

The Rev. James Scott married Sarah, the daughter of Gustavus Brown of Maryland, by whom he had a number of sons and daughters, among them was the Rev. John Scott, who succeeded his father as rector of that parish.

In his early years John Scott appears to have been an impulsive, high spirited man, taking, as it was said of him, "life by storm". At the age of 18, resenting what was deemed an insult to himself and his father, he challenged to mortal combat a somewhat notorious character of that age. His second, his brother-in-law, Mr. Bullitt, in endeavoring to prevent the encounter, was attacked by his adversary and killed him in self defense.

Shortly thereafter, Mr. Scott went to Scotland and entered Kings College at Aberdeen. While there he married Elizabeth Gordon, a daughter of Thomas Gordon, one of the professors.

Upon the completion of his education and while still abroad, he was ordained a minister of the Established Church.

He returned to America at the request of his friend, Sir Robert Eden, then Governor of Maryland, to become his chaplain, and rector of the Parish of Eversham, where he resided until the war of the Revolution broke out. Being an Englishman, by training and education, he adhered to the Royal cause, and taking an active part in politics, was summoned before the Council at Annapolis and banished a hundred miles from tide-water, taking up his residence on an estate in Fauquier County named in honor of his wife "Gordonsdale".

The lawyer who conducted his examination before the Council, says Bishop Meade, from whose book the foregoing has been taken, "ever afterwards spoke of him as the most talented man with whom he had ever engaged in controversy".

On his departure from Scotland John Scott was compelled to leave his eldest son, Robert Eden, then too delicate to stand the long and rough voyage across the ocean. The latter remained in Scotland, becoming an eminent professor in Kings College at Aberdeen, and his portrait now hangs upon its walls.

The second son of John and Elizabeth Gordon Scott, was John Scott of Fauquier, Judge of the Circuit Superior Court of that County, and a member of the old General Court of Virginia, serving until his death, a period of twenty years.

He was noted for his strength of character, stern integrity and eminent qualifications as a jurist. He represented his

District in the Constitutional Convention of 1829-30, where he took a most prominent part.

It was said of him by the late John Randolph Tucker, himself an eminent lawyer, in an address before the Richmond Bar Association:

"Judge John Scott (with the name and genius of Eldon) was a man of masterful power in mind and character. At the bar he had been a great advocate; in the Convention of 1829-30 he was a prominent leader in its deliberations; a vigorous controversial writer, and on the bench he was one of the ablest judges in the country."

Judge John Scott married Betsy Blackwell, the daughter of Martin Pickett.

Robert Eden Scott, the eldest son of this marriage, was born at Warrenton, the county seat of Fauquier, on the 23rd day of April, 1808. He was early sent to the University of Virginia, entering in 1825, the first class admitted to that celebrated institution of learning. While there he gave evidence of the high character and capacity for which he became so distinguished in after life.

He passed through all his classes with distinction and left the University with a high reputation for learning and ability.

Returning to his native county, he was on the 30th day of December, 1830, licensed to practice law by John Tayloe Lomax, Richard H. Field and John W. Green, distinguished lawyers of that time.

He was soon found in the front rank of his profession, at a time when it numbered some of the greatest names that have adorned it in this State, and at the time of his death he was one of the most eminent lawyers of his section.

He was noted as a profound student of the science of government, a most able and eloquent advocate, and the demand for his services was not confined to his own State.

The only report we have of his many appearances in the great cases of his time is that known as "The Trial of the Washington Election Rioters".

On July 1st, 1857, when the City of Washington was in what was then known as Washington County, and its citizens

vested with the right of suffrage, there was in that city a great election riot. The United States marines were called out, and they firing into the crowd, killed and wounded many. A number of the alleged rioters were indicted and brought to trial in the September following before Judge Crawford. Philip Barton Key, then United States District Attorney, conducted the prosecution, and Mr. Scott led the array of the lawyers for the defense.

His speech on that occasion appeared in "*The American*", a newspaper published in the city of Washington, and is a model of its kind. Clear, accurate and profound in all his statements of legal propositions, unanswerable in its logical array of facts, at times, impassioned, yet ever courteous and dignified, it presents an eloquent defense of the accused.

But it was as a statesman and a political leader, when great and grave questions of state were discussed by great men, at a most critical period, that he shone pre-eminent. Among those of his time he was *facile princeps*; so acclaimed by friend and foe alike. Speaking of him to Judge James Keith, President of the Supreme Court of Appeals of Virginia, the late Jno. B. Baldwin of Staunton, one of the great public men of that generation, said, shortly after the close of the war: "I knew intimately all the public men of the South, and was more or less well acquainted with those of the United States at large, and I consider Robert E. Scott the greatest of them all".

He was a most earnest supporter of the doctrines advocated by what is known as the Old-line Whig Party, and was its recognized leader in his State, its chosen champion on all great occasions.

He served with great distinction in the Legislature of Virginia as the representative of his County for a number of years, was a member of the Constitutional Conventions called in his time, those of 1850 and 1861. Thereafter he represented his County in the State Legislature and his District in the Confederate Provisional Congress.

In the Legislature of 1849 he introduced a bill for the reform of the jury system of the State, and supported it in a luminous and profound argument which furnishes a striking illustration of his power in debate.

The changes he advocated were the taking of the burden of the maintenance of the system from the several counties, placing it upon the State where it properly belonged; transferring from the hands of the sheriffs the selection of the jurors to the judiciary; reducing the number of jurors in civil cases from twelve to seven, and finally permitting a decision by a majority to be controlling.

All of these reforms, save the last, have since been adopted and are now in force.

A member of that Legislature, his desk mate, one who came to know him well, writing in the *Richmond Times* of July 21, 1895, thus speaks of him and his work at that time:

"At the head of these Whig leaders stood Robert E. Scott of Fauquier, without a peer in intellectual power and fascinating oratory. Singularly enough, Mr. Scott, when he arose to speak, for several minutes stammered and hesitated as if at a loss for the right word to use, or his inability to pronounce it distinctly, and when uttered, it seemed to be shot out by the sudden explosion of constrained energy. Sometimes this embarrassing condition lasted several minutes, and then suddenly disappeared with an emotional quivering of the voice, as if overcome by an eager desire to plunge into the very core of the subject of the debate. But this hesitancy and jerkiness of utterance passed away with a few rather awkward introductory sentences and then his words flowed out as freely as water from a gushing fountain, and proposition succeeded proposition, deduction followed deduction with the energy and irresistible force of a mountain torrent sweeping everything before it. I think he was one of the most eloquent men I ever heard and I know he was the most logical. The Whigs although in a hopeless minority in the House, often defeated their adversaries on extremely radical measures and forced them to a modification through Mr. Scott's transcendent ability. * * *

"Of all men that I ever knew intimately, there was none that I admired or respected more than Robert E. Scott. He generally spoke on very important questions and rarely had a word to say in mere squabbles and quibbling over immaterial matters that spring up in all deliberative bodies, and that are pitched into by mere hair splitters. He had no talent for the discussion of trifles. He aimed to get at the

very core of the subject, and to dissect it to its minutest fibre in search of what was sound, and to expose what was unsound, and thus eliminate the true from the false of any theory or proposition submitted to the analysis of his great mind."

Like all men of great ability, foresight and strong convictions, he not infrequently found himself in a hopeless minority, but that fact never daunted him nor deterred him from expressing his convictions and following the course his conscience dictated.

On such an occasion he said:

"Valiant in the security that numbers afford, gentlemen freely boast of the majority anticipated for the favored resolutions. The purpose of this boasting was obvious to all; for one I freely acknowledge its power; but when such an appliance was used to force through a favored measure; we may be excused a suspicion of its justice and truth. If the intention is to deter me from the opposition which I contemplate, the result will show how fruitless of its end the attempt will be. Whilst I deeply regret my separation, on this occasion, from other members on this floor, and deplore the necessity for opposition to their wishes, my resolution has never faltered; the path of duty lies plainly before me; and I will pursue its way if I tread that path alone. I see in the resolutions what I deem vicious and against its vices I raise my voice. * * *

"I know that I stand here with a small minority, and in making opposition to this measure, I go counter to public prejudices, and subject myself to animadversion and reproach. My arguments are misrepresented, my motives assailed, and every influence that party intolerance can command is employed to my prejudice. However I may lament this condition, my purpose is unshaken.

"I love this Union, I love its peace, I love its blessings, and I but discharge a duty when I proclaim its danger. My voice will be unheeded in this hall, it may be unheeded out of it, but if the doctrine contained in these resolutions be followed to its consequences, and the time come when the people of this State, upon the issues now presented shall choose between the blessings of our glorious Union and the horrors of a dissolution, believe me the sentiments I have given utterance to will then find a response".

These words were spoken in the House of Delegates of Virginia on the 11th day of January, 1849, in opposing certain resolutions reported by the joint committee on the Wilmot Proviso and other kindred measures then under consideration. How prophetic they were of the conditions as they existed in the Constitutional Convention of 1861!

As early as 1842, in a notable address showing his profound and accurate knowledge of the constitutional history of our country, he pointed out with the greatest clearness and force the dangers resulting from the constantly increasing powers of the Federal executive, and proposed to the Legislature of Virginia an amendment to the Constitution of the United States guarding the exercise of that power and limiting the President to a single term.

Devoted to the Union, yet he always placed his allegiance to his State above all else, ever ready to defend her rights, and preferring to serve in her legislative halls to entering upon the broader arena of the national congress, or the cabinet of the President.

In 1858 he was urged by his friends and political associates to offer for a seat in the Federal Congress from his District, when, as he was assured, the opposition being divided, his election was almost certain. To this he replied that if he had any desire for a seat in the House of Representatives, business engagements would put it out of his power to engage in the canvass, adding that he preferred to serve in the Legislature of his State, and did not consider success, the result of running in between two opposing candidates, desirable, saying:

"But in truth I have no such desire. When this County composed part of a Whig district and we had a Whig party in active life, I several times declined nomination by conventions of my political associates, when a nomination was equivalent to an election. I preferred a service in the State Legislature, when opportunities for usefulness there presented themselves. * * *

"The field is already occupied by two gentlemen of the same political party, whose opinions as to our Federal politics are supposed to harmonize with those of the majority

of the voters, and if, in this condition of strife in the party, I could be successful in running in between the two, I could not regard the success as desirable."

Again in 1861, before he was elected to the Convention of that year, which passed the Ordinance of Secession, when it was suggested by those speaking with authority that he would be given a seat in President Lincoln's Cabinet if he would accept it, he promptly declined to entertain the suggestion.

In a letter written on January 18, 1861, to the gentlemen presenting the question for his consideration, he said:

"I have several times seen my name mentioned in the newspapers in connection with a seat in Mr. Lincoln's cabinet, but nothing has reached me from any quarter authorizing the supposition that those notices contained anything more than the mere speculations of the writers.

"If, however, as you seem to think, there is any real foundation for these reports, I have no hesitation in relieving the question at once of all embarrassment, for I have none of that vanity which might induce me to seek the eclat of a direct offer for a cabinet appointment.

"My habits of life, my pursuits, my tastes and inclinations are all opposed to official station, and with the exception of a brief service in the Legislature of my State, I have taken but small part in the political affairs of the country. Necessarily therefore I must be but little prepared for the duties of a cabinet office.

"But if these objections did not stand in the way, there are others of a public nature that would make it impossible for me to accept the place. With the new administration the Republican party is to be inaugurated into power, and I understand that party to claim the right to exercise the Federal power to the prejudice of the institution of slavery as it exists in this country, and to be committed to a policy that subordinates the interest of fifteen of the associated States to the interests of the other eighteen. Neither the letter, nor the spirit of the Constitution warrants such a policy and it is no less condemned by the plain principles of justice and equity.

"These considerations have taken firm hold of the Southern mind and unless the fatal policy is disavowed and measures be shortly taken to secure the Southern people against the recurrence of the obnoxious pretensions, it

seems to me from present indications, that the new administration will find itself in a position to devote its exclusive energy to the more tasteful duty of cherishing the interests alone that pertain to the favored eighteen.

"I am strongly attached to the Union and believe that the best interests of both sections will suffer from its overthrow, but if the principles of equity and justice on which it was established are disregarded by the government which springs from it, the latter must be reformed in its practices and so amended in its Constitution as to make it conform in the future to the principles on which the former reposes. I think the slaveholding States ought not, cannot and will not submit to any party, policy or power that denies to the interests that spring from slave labor the same consideration and respect that is extended by the government to the interests that spring from free labor. In this there must be strict equity. I regret to say that as yet I have discovered no movement in this direction on the part of any of the party leaders in Congress, and yet it must be obvious that in this way only can the Union be preserved. I know it is extremely difficult for politicians in the flush of victory to retrace their steps and abate from pretensions on which the battle was fought, but if in the ardor of the conflict they have gone too far and been betrayed into positions inconsistent with equality and justice, can they not upon sober thought surrender extreme pretensions, and strike hands with those who would cherish the Union and mold the government so as to make it perpetual?"

"In December last I addressed a letter to a friend in Washington, expressing my views touching our present embarrassments, in which these considerations were more fully adverted to; that letter will be published and from it you will more readily apprehend how impossible it would be for one holding out such sentiments to give the sanction of his name to a policy or a party obnoxious to these objections."

He was nevertheless formally tendered the position, and declined it. The *New York Herald* in May, 1862, stated:

"Mr. Robert E. Scott, who was murdered the other day was offered the position of Secretary of the Navy under the present administration. Mr. Seward wrote the letter confirming the tender."

Nicholay and Hay confirmed this statement.

He was ever a consistent and earnest advocate of the preservation to the several States of their sovereign powers and just prerogatives. On all occasions he denied the right of the Federal government to interfere with the Southern institution of slavery.

With irresistible logic he pointed out that it was originally forced upon Virginia against her solemn protest, laws passed by her prohibiting it being vetoed by the king; that it was first practiced in the North, her citizens being themselves slave traders, from which traffic they accumulated vast fortunes; that it was an institution existing and sanctioned by law at the time of the adoption of the Federal Constitution, recognized by that instrument and the laws passed pursuant thereto for generations thereafter, demonstrating that, as a social institution, it was for the States alone in their sovereign capacity to deal with it as they thought fit.

Time and again during the days of the gathering storm which culminated in the Civil War, while earnestly advocating the preservation of the Union and solemnly pointing out, as subsequent events have shown, with the inspired voice of prophecy, the evils and the result of the threatened conflict, yet he sternly denied the right of the Federal Government to invade the territory of a single State, or to coerce any of them in their undeniable right to secede, declaring that any attempt to coerce them would be an act of aggression which could not be endured with honor, and which should be resisted to the uttermost.

And so, in the Secession Convention of 1861, where he battled so long and brilliantly in his efforts to keep Virginia in the Union, when President Lincoln made his call for volunteers to coerce the seceding States and force them back into the Union, true to his principles and the fearlessness of his nature, he unhesitatingly accepted the gage of battle, voted for and signed the ordinance of secession. In an address to the people of his Congressional District issued in September, 1861, he declared:

"While a hope remained of obtaining a satisfactory settlement of the questions that divided the Northern and

Southern people, I was strongly in favor of the preservation of the late Federal Union, and looked with anxious solicitude to the action of the Conference convened at Washington by our own General Assembly. The failure of that Conference, and the indifference to the failure manifested by the people of the Northern States, extinguished all hope of a settlement by the direct agency of those States, and I at once accepted the dissolution of the then existing Union, and the overthrow of the Federal authority within our limits, as a necessity. But in the divided condition of our own people and those of the other border States, and the want of the necessary preparation for the struggle which I deemed imminent, I was among those who desired time for preparation, and sought to obtain it by measures looking to a concert of action among the people of the slave-holding border States. I was never, in any sense of the term, a 'submissionist', but from the moment when the issue between the sections was made, I constantly avowed the determination to prosecute it, without respect to consequences, until every just right of the Southern States should be conceded, and constitutional amendments provided calculated to secure us in the future against the wrongs and aggressions out of which the issue had sprung. I did not concur in the policy of the immediate and separate secession of this State, and as a member of the Convention opposed that policy until opposition seemed unavailing, when, to give every possible strength to the measure, to make it acceptable to the people, to heal divisions in the Convention, to avoid divisions out of it, and to take my share of the responsibility about to be assumed, I voted for the Ordinance, and counseled and besought others with whom I had been acting to do likewise. It will not be deemed egotism if in this connection I say that it was in some degree owing to this action on my part that the majority for the Ordinance was swelled to the large number of votes by which that measure was passed.

"It is no part of the purpose of this address to vindicate the policy by which I was governed, but simply to make statements of facts. The answer of Mr. Lincoln to the committee of the Convention followed quickly by his proclamation calling for seventy-five thousand armed men, and the response of the Northern people to that call, turned the minds of the majority of the Convention from the propositions of constitutional amendments and the meas-

ures touching the border States with which the body was engaged. My opinions were overruled, when, without the delusion of a peaceful separation, but with a clear perception of the consequences, I took position fearlessly in the ranks of those who were most determined to hazard all in the struggle impending over us".

Upon the passage of the ordinance of Secession, Mr. Scott at once returned to his native county to join in the preparation for the defense of his State. He organized and equipped a company of infantry, the Warrenton Rifles, and, his son,—R. Taylor Scott, gallant soldier and Christian gentleman and distinguished lawyer, the future Attorney General of his State—becoming its captain, served with distinction throughout the war.

His great regret was that he, too old for service in the ranks, was unfitted for military command.

Later, in the spring of 1862, when marauders were terrorizing his community, he gathered together a few of the remaining old men and led them in the pursuit. Surrounding the marauders in a house a few miles west of Warrenton, insensible to fear, he stepped up to demand their surrender, when without a word, through the partially opened door, he was shot through the heart and instantly killed.

In the *Richmond Dispatch* of May 9, 1862, there appeared the following tribute to his memory:

"THE LATE ROBERT E. SCOTT.

This eminent citizen, who was foully murdered by a gang of Yankee marauders we yesterday alluded to, was a native of Fauquier and oldest son of the late Judge John Scott of that county, one of the most eminent jurists of his day. The family are all distinguished for talent; Captain John Scott, who was the original commander of the Black Horse Troop, and Dr. Martin Scott, formerly a professor in the Medical College of this city, younger brothers of Robert E., having already earned a high reputation, the one by his political writing and the other by his skill in his profession.

"Robert E. Scott was educated at the University of Virginia, which he entered during the first session in 1825, and did not leave until he had passed through all

the classes, he took at college the stand which he maintained through life. He became noticed at once among his companions for his high spirit and lofty contempt of anything mean or shuffling, not less than for his powerful understanding, and earnest application to his studies. Throughout the time of his sojourn at the University, he stood among the first in his classes, and left the institution with a high reputation of a mind stored with knowledge, he commenced the practice of law about the year 1830, and almost at a bound placed himself on the same platform with the best and oldest of his associates. What he once gained he never lost. His application was equal to his talent, and he improved every day to the hour of his death. When that deplorable event occurred, he was among the ablest lawyers Virginia has ever produced. Between the years 1835 and 1840 he was elected to the Legislature from his native county, and continued to represent it for many years. Among the many men of powerful talent who were in the Legislature during the time of his service he met with no superior. Had it been his fortune to represent his district in Congress it is believed that he would have made a national reputation, not inferior to that of any man who has represented Virginia in its time. He was in the late Convention and was distinguished for the zeal with which he opposed secession, as long as he believed it possible consistently with honor to hold on to the Union.

"Robert E. Scott was a man with the most inflexible integrity. He thought for himself, and he thought powerfully. When his convictions were once settled, he maintained them with unflinching tenacity. Yet his firmness, great as it was, never degenerated into brute obstinacy. He was always open to reason, and if he seldom changed his mind it was because he was accustomed to study every question thoroughly before he made it up. He is believed to have been a *perfectly just man*, and his high spirit could not brook the manifestation of injustice on the part of others. Had he been a younger man he would doubtless have been a distinguished officer in this war, for he had all the requisites of a great general except experience. Calm unshaken courage; a high order of talent; great force of character; a will as determined as that of Caesar and that talent for commanding the obedience of men without which all other talents are thrown away upon a general. It must make the blood of every Virginian boil in his veins when he thinks upon his fate."

On May 8, 1862, the Congress of the United States passed a resolution calling on the Secretary of War for information concerning the homicide, and Brig. Gen. John W. Geary, pursuant thereto, made the following report:

"Headquarters Detached Brigade,
near Rectortown, Va.

May 13, 1862.

"Sir: Various versions of the recent shooting of Robert E. Scott and John Matthews, citizens of Fauquier County, Va., having obtained currency, I herewith respectfully beg to submit to you a correct statement of the occurrence, a detailed account of which was furnished by me to Major General Banks. It was reported to me that two deserters from another branch of our army were committing depredations between Salem and Warrenton, when I immediately detailed Lt. Wells, with a detachment of 1st Mich. Cav., to trace them up. Guerrilla cavalry infesting the neighborhood, a squad was sent forward in advance, who returned and reported to the Lt. that Messrs. Scott and Matthews had been killed by the two men in question, when the whole party hurried to the scene of action, which was on the farm of Franklin Smith, about 5 miles from Warrenton. They there found the bodies of the two citizens and that of one of the supposed deserters, and ascertained that the two soldiers had been occupying the house for some time, when upon this day (May 3) Robert E. Scott, dec'd, led a party to capture them, among which were John Matthews, dec'd, Robert Hames, George Riley, Winter Payne, Alfred Perkins, Edward Briggs, J. W. Heflin, and Tibley Page, all residents of Warrenton and vicinity. Mr. Scott was shot while entering the house at the head of the party, gun in hand, and Mr. Matthews in the melee consequent upon the attempted escape of the two soldiers. One of the soldiers was shot by a citizen in attempting to escape; the other escaped to the mountains, where Lt. Wells did not deem it safe to pursue him owing to the presence of bodies of guerrilla cavalry.

"I have since learned that the remaining soldier voluntarily gave himself up to the commanding officer at White Plains. His name is J. H. Bayard, and that of his comrade who was shot was William C. Franklin. He represented that they were both privates in Capt. A. Gordon's Co. of 7th Reg. Wisconsin Vols., Gen. King's Brigade.

The initials of the names and their identity with the regiment named, are shown upon the blankets found upon the site of the melee. Bayard stated that they had been taken prisoner by scouts of the enemy, from whom they had escaped, and that they were in search of the command to which they belonged when the attempt was made by the citizens to capture them.

"It appears, however, that they had been guilty of marauding in the section through which they passed.

Very respectfully, yr. ob't serv't,

John W. Geary, Brig. Gen., Com'g."

Thus untimely fell, foully murdered by marauding deserters from the Federal army, one of the ablest and most devoted of Virginia's many able and devoted sons.

Among the knightliest of his race, in the full vigor of his intellect and the maturity of his great powers, foreseeing with the unerring vision of a prophet the consequences of his act, with unswerving loyalty and unshaken courage, without a moment's hesitation he laid his all upon the altar of his State, and now rests in a lonely grave, far from the clash of contending factions. He rests well, and sleeps peacefully at his beloved Oakwood, his ancestral home, in the bosom of the County whose delight it was to honor him, ever relying upon his power, his wisdom and devotion, a reliance which never failed, and to which he was true even unto death.

Over his grave there stands an humble marble shaft, upon which is inscribed the simple but eloquent tribute:

"His life was gentle, and the elements so mixed
in him that nature might stand up and say to all
the world, 'This was a man.'"

MARRIAGE BONDS

FAUQUIER COUNTY, 1759-1777

<i>MALE</i>	<i>FEMALE</i>	<i>DATE OF BOND</i>
Robert Wickliffe	Mary Hardin	June 18, 1759
Thomas Wood	Sarah Buchanan	Aug. 27, 1759
Joseph Hudnall	Mary Taylor	Nov. 30, 1759
Nimrod Ashby	Frances Wright	Nov. 30, 1759
Chandler Fowke	Mary Harrison	Dec. 19, 1759
George Wheatley	Diana Darnall	Feb. 19, 1760
John Ashby Jr.	Mary Turner	Feb. 15, 1760
Bennett Price	Judith Blackwell	June 1, 1760
Charles Chilton	Betty Blackwell	Dec. 19, 1760
William Moffet	Ann Stone	Feb. 3, 1761
Felix Gilbert	Ann Grant	Oct. 19, 1761
William Foote	Elizabeth Foote	Aug. 26, 1763
William Elliot	Eleanor Burger	Sept. 22, 1763
James Wright	Mary Duncan	Dec. 8, 1763
James Peters	Winifred Ashby	Jan. 17, 1764
William Seaton	Mary Kenner	Feb. 6, 1764
William Nash	Mary Bradford	Feb. 23, 1764
William Helm	Lettice Neavil	Feb. 23, 1764
William Edmonds	Elizabeth Blackwell	Mch. 16, 1764
Francis Moore	Frances Foote	Apl. 2, 1764
Benjamin Tyler	Mary Foote	Apl. 9, 1764
Martin Pickett	Ann Blackwell	May 31, 1764
John Clayter	Elizabeth Herrill	June 7, 1764
Rodham Tullos	Ann Finnie	Aug. 21, 1764
Benjamin Hawkins	Ann Bowen	Oct. 29, 1764
Thomas Auberry	Ann Fletcher	Nov. 13, 1764
Richard Rixey	Elizabeth Morehead	Nov. 16, 1764
William Allen	Mary Bradford	Dec. 8, 1764
William Jennings	Elizabeth Withers	Dec. 24, 1764
Charles Hume	Hannah James	Dec. 26, 1764
Benjamin Bradford	Ann Allen	Dec. 30, 1764
William Tippet	Sarah Hill	Jan. 14, 1765
Hezekiah Rhodes	Elizabeth Putnam	Jan. 20, 1765
Joseph Cockerel	Elizabeth Boaden	Jan. 26, 1765
James Neilson	Betty Obanon	Feb. 11, 1765

Moses Green	Mary Blackwell	Feb. 13, 1765
Edmond Homes	Sarah Ann Starke	Apl. 23, 1765
Peter Rout	Ann Crosby	June 5, 1765
Richard Boyce	Sarah Helm	June 19, 1765
Henry Manzy	Elizabeth Morgan	July 23, 1765
Minor Winn	Betty Withers	Oct. 17, 1765
John Nelson	Mary Young	Jan. 15, 1766
James Blackwell	Ann Blackwell	Mch. 3, 1766
Ambrose Barnett	Judith Neavil	July 18, 1766
Benjamin Pope	Bahcthelon Foote	Dec. 11, 1766
William Harrison	Jane Hume	Feb. 3, 1767
Joseph Duncan	Sarah Fletcher	Feb. 18, 1767
James Winn	Hannah Withers	Mch. 3, 1767
William Ashby	Mary Tibbs	Apl. 24, 1767
John Foley	Milly Ashby	Apl. 24, 1767
William Hansborough	Sarah Watts	Apl. 27, 1767
Richard Jackman	Mary Neavil	May 2, 1767
John Wake	Mary Grigsby	Aug. 24, 1767
Joseph Minter	Hannah Tomlin	Nov. 17, 1767
Peter Grant	Susannah Winn	Nov. 23, 1767
John Lee Wright	Elizabeth Coppage	Dec. 5, 1767
Thomas Obannon	Fanny Jennings	Dec. 7, 1767
Benjamin Piper	Winifred Ashby	Dec. 9, 1767
Original Young	Betty Manzy	Mch. 29, 1768
Benjamin Garner	Betty Garner	May 4, 1768
James Gillison	Ann Harrison	May 17, 1768
Charles Waller	Elizabeth Norman	Sept. 26, 1768
Thomas Watts Jr.	Hannah Rust Bogges	Sept. 26, 1768
John Seaton	Alice Murray	Oct. 21, 1768
Thomas Nelson	Rachel Grigsby	Oct. 24, 1768
Francis Atwell	Mary McDonald	Oct. 25, 1768
John Rhodes	Nancy Dutman	Nov. 10, 1768
Samuel Moore	Elizabeth McFearor	Nov. 22, 1768
Josiah Fishback	Ann Nelson	Dec. 12, 1768
Edward Humston	Susannah Quarles	Jan. 13, 1769
Joseph Barbee	Ann Withers	Feb. 2, 1769
William Withers	Hannah Rosser	Mch. 16, 1769
George Adams	Anna Turner	June 9, 1769
Thomas Smith	Elizabeth Adams	June 26, 1769
James Markham	Catharine Kenner	Nov. 20, 1770
George Davis	Elizabeth Grinan	Dec. 17, 1770
William Butler	Margaret Jones	Dec. 17, 1770
Richard Head	Sarah Newport	Jan. 5, 1771
John Rust	Elinor Atchison	Jan. 20, 1771
Isaac McCoy	Bridget Withers	Jan. 28, 1771

William Grigsby	Elizabeth Bullitt	Feb. 8, 1771
Sanford Carroll	Betty Bartlett	Feb. 13, 1771
Jacob Fishback	Phebe Morgan	Feb. 18, 1771
James Hathaway	Joanna Nevill	Mch. 25, 1771
Kimber Barton	Elizabeth Lewis	Apl. 16, 1771
James Ireland	Jane Burgess	Apl. 22, 1771
Peter Hord	Honor Wheatley	May 28, 1771
James Hackley	Mary Freeman	June 14, 1771
John Fishback	Alice Morgan	June 17, 1771
Nicholas Springs	Catharine Butcher	Aug. 20, 1771
Joseph Duncan	Hana Freeman	Aug. 21, 1771
Samuel Arnold	Elizabeth Wright	Sept. 5, 1771
George Hinson	Sussanna Little	Sept. 17, 1771
William Russell	Mary Darnall	Oct. 18, 1771
Isaac Arnold	Mary Porter	Oct. 23, 1771
Matthew Smith	Martha Winn	Nov. 25, 1771
John Mitchell	Mary Rosser	Dec. 21, 1771
Joseph Nelson	Catharine Obanon	Dec. 23, 1771
Richard Buckner	Judith Edmonds	Feb. 27, 1772
Charles Waller	Mary Crosby	Mch. 9, 1772
George Grant	Mary Shackleford	Mch. 12, 1772
William Drummond	Winny Williams	Mch. 21, 1772
Owen Campbell	Betty Settle	June 15, 1772
Edward Walpole	Ann Chinn	June 19, 1772
Henry Allen	Betty Nelson	June 27, 1772
George Cloke	Alice Hudnall	June 29, 1772
James Slaughter	Elizabeth Hampton	July 22, 1772
Thomas Neavil	Mary Stewart	July 31, 1772
Edward Settle	Rosanna Morgan	Sept. 28, 1772
Robert Layton	Ann Stamp	Oct. 13, 1772
John Baxter	Amelia Briant	Nov. 26, 1772
Thomas Massey	Molly Morehead	Dec. 23, 1772
Willy Roy	Sarah Fowke	Dec. 26, 1772
Michael Robinson	Molly James	Mch. 29, 1773
John Pope Williams	Hannah Minter	July 19, 1773
Tyler Waugh	Mary Crump	Aug. 23, 1773
Samuel Pearle	Dorcas Kerr	Aug. 25, 1773
William Stanton	Lucy Blackwell	Sept. 24, 1773
James Withers	Sarah Pickett	Nov. 19, 1773
Charles Chadrick	Winifred Hainey	Jan. 2, 1774
Michael Myers	Margaret Thornberry	Apl. 2, 1774
William Phillips	Elizabeth Fowke	June 7, 1774
George Harris	Catharine Harris	June 16, 1774
Frederick Kamper	Molly Jeffries	Oct. 24, 1774
Francis Morgan	Mary Read	Nov. 20, 1774

Joseph Morgan	Elizabeth Bradford	Nov. 26, 1774
William Hampton	Fanny Hunton	Dec. 14, 1774
Francis Ash	Ann Adams	Dec. 20, 1774
Ephraim Hubbard	Ann Edmonds	Dec. 27, 1774
John Shumate	Susannah Crump	Feb. 2, 1775
Benjamin Berryman	Ann Bryant	Apl. 1, 1775
William Green	Lucy Blackwell	May 13, 1775
Josiah Basye	Sarah Sinclair	May 22, 1775
Thomas Keith	Judith Blackwell	May 23, 1775
Zeky Renoe	Mary Chinn	July 26, 1775
Richard Price	Peggy James	Aug. 3, 1775
James Withers	Cloe Jennings	Nov. 4, 1775
John Carthroe	Molly Boswell	Feb. 12, 1776
Thomas Bartlett	Sarah Carroll	Jan. 2, 1777
John Catlett	Rachel Routt	Jan. 22, 1777
William Withers	Elizabeth Barber	Mch. 17, 1777
John Dulin	Fanny Glascock	Mch. 24, 1777
William Gibson	Hannah Settle	Mch. 31, 1777
John Smith	Mary Berryman	Apl. 22, 1777
William Berry	Clara Feagan	May 7, 1777
Elijah Berry	Susannah Feagan	May 9, 1777
George Berry	Sarah Conway	May 17, 1777
Battaley Bryan	Elizabeth Berryman	May 20, 1777
Joseph James	Mary James	June 3, 1777
William Freeman	Sallie Settle	June 15, 1777
George Williams	Susannah Graham	July 10, 1777
Patrick Whalon	Susannah Leach	July 28, 1777
Allen Redd	Susannah Bullett	July 28, 1777
Joseph Bailey	Hannah Newby	Aug. 9, 1777
Samuel Jackson	Vashti Grinon	Aug. 11, 1777
Samuel Boyd	Molly Brooke	Aug. 13, 1777
James Freeman	Elizabeth Sharpe	Aug. 28, 1777
Robert Singleton	Drisilla Webb	Sept. 22, 1777
Andrew Obanon	Mary Smith (widow)	Oct. 10, 1777
Francis Watts	Sarah Toby	Oct. 16, 1777
Nathaniel Ashby	Peggy Manzy	Dec. 3, 1777
Joseph Neavil	Mary Ellett	Dec. 20, 1777

(To be Continued)



NORTH WALES—1773

NORTH WALES

Among the early houses of the county is North Wales situated about three miles south of Warrenton. The estate on which it was built contained 565 acres of land lying between the Lee's Ridge Road and the Culpeper Turnpike and was part of a tract of 2900 acres for which Captain John Hooe and his brother Rice Hooe obtained a patent from Catharine Lady Fairfax, November 10, 1718. It lay in the Great Run Valley in what was then Richmond County. The patentees of this tract were descended from Rhys Hooe, born in 1599, who emigrated to Virginia from Wales in 1635. In 1637-8 he appears to have received two grants of land near Martin Shipp's Land-
~~land~~ James City County. In 1642 he was Burgess for Shir-

The date

field and other estates and gave the name of "North Wales" to the land that he and his brother patented. Rice Hooe sold his interest in this property to James Withers, December 14, 1736, and Captain John Hooe dying in 1763, bequeathed all his landed property to his three daughters, Sarah (m. Nathaniel Washington), Susanna (m. Thomas Roy) and Anne (m. William Allason, of Glasgow, Scotland). William Allason commenced the construction of the North Wales house on the land inherited by his wife, in 1773, but the building was not completed until after the Revolution. Their only daughter, Mary Seymour Hall Allason, who married Capt. Robert Rose, inherited this house and 565 acres of land. The prop-

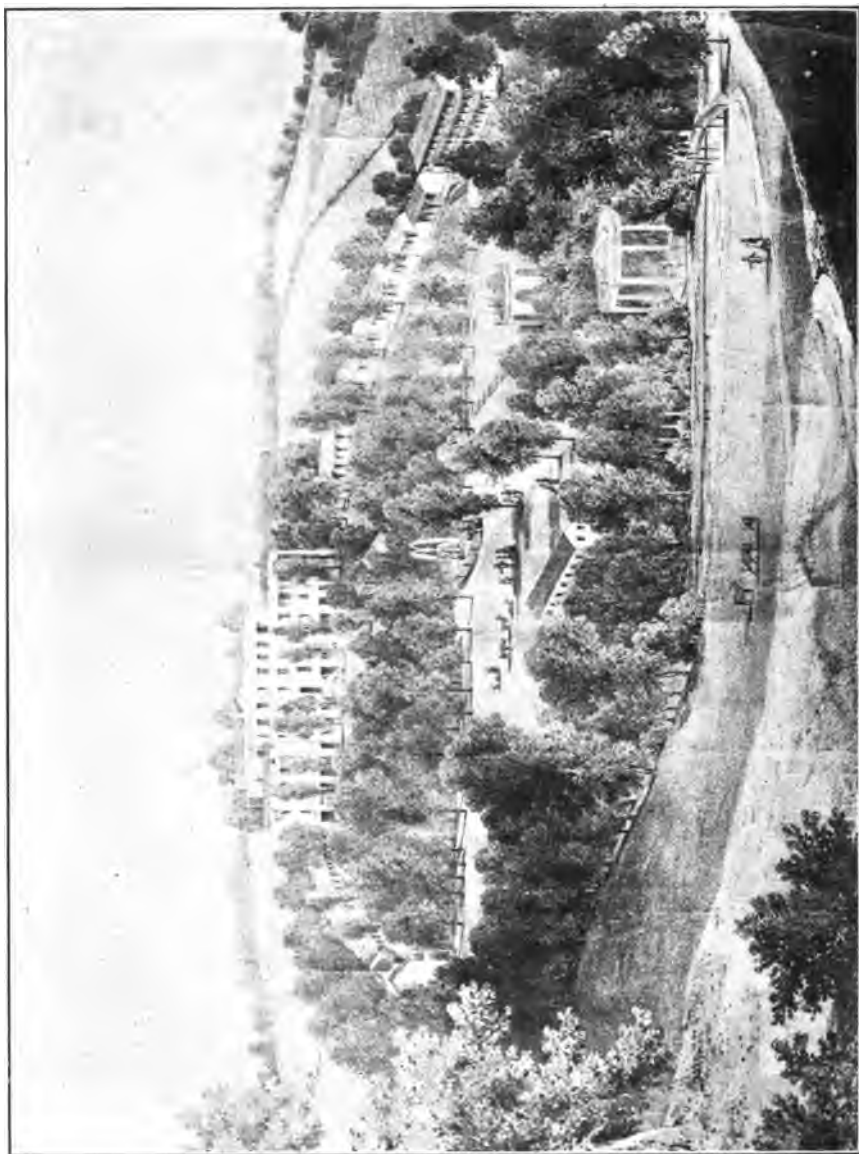
erty next descended to their daughter, Anne Allason Rose, who married Henry Washington Ashton and on her death and that of her husband in 1876, to their son, Henry Ashton, who eventually sold the house and land, March 2, 1914, to Edward M. Weld of New York. The house was built of stone, and although of plain exterior, its size and proportions gave it a dignified and, from a distance, a distinctly imposing appearance.

The old family burying ground of North Wales contained three marble headstones bearing the following inscriptions:

"In memory of Robert Rose, born August 2nd, 1769, died March 8th, 1811, and Mary S. H., his wife, born May 31st, 1773, died August 14th, 1853. Their remains are interred in the old church yeard at Falmouth, Virginia."

"In memory of Anne A., wife of Henry W. Ashton and daughter of Robert and Mary S. H. Rose, born June 11th, 1796, died February 27th, 1876."

"In memory of Henry W. Ashton, born May 6th, 1794, died March 4th, 1876."



FAUQUIER WHITE SULPHUR SPRINGS—1857

From *Warrenton and Fauquier County*, 1908.
By permission of Miss Annie G. Day.

SIX WEEKS IN FAUQUIER*

Being the Substance of a Series of Familiar Letters, illustrating the Scenery, Localities, Medicinal Virtues, and General Characteristics of the White Sulphur Springs, at Warrenton, Fauquier County, Virginia:

Written in 1838, to a gentleman in New England

BY A VISITER

Qui n'a santé n'a rien (French proverb)

CHAPTER I

THE JOURNEY HITHER. THE MEDICINAL QUALITIES OF THE SPRINGS.

THE PLACE DESCRIBED.

The traveller from the North having arrived at Washington D. C., takes the stage at five, A. M., and proceeding in a southwesterly direction, enters Virginia, passing through Fairfax and Prince William counties, into Fauquier county, and arrives at the Fauquier White Sulphur Springs, fifty-six miles from Washington, at about three o'clock, P. M.

He will find nothing of particular interest on the road from the metropolis to these Springs. He passes, however, several extensive and well cultivated farms; fine herds of cattle, browsing in the pastures, while rich fields of corn, rye, and wheat, are seen extending, at times, from the road-side, and covering hill and dale, as far as the eye can reach. That, however, which affords the most delight, in the way of scenery, is a view, as he ascends a hill near Centreville, of the Blue Ridge Mountains, the lofty and spiry peaks of which, far in the distance, give a picturesque and beautiful effect to the landscape.

The medicinal qualities of the Sulphur prings at this place were known and highly appreciated, long before they were open to the public. While the virtues of the waters remained in comparative obscurity, the resort of those living in the neighborhood caused such an interruption to the farming operations of the proprietor, as induced him, after every other endeavour to keep out crowds of visitors had failed, to fill up the spring. But so clearly had its value been established, by the compara-

* From a pamphlet under this title published by Samuel Colman, No. 8 Astor House, New York, 1839.

tively partial trial of its virtues, that the estate was purchased by Hancock Lee, Esq., one of the present stockholders, with a view of making it a place of public resort. As the waters are becoming more and more celebrated each year, for their health-restoring qualities, more extended operations, and a greater outlay of capital will soon be necessary, to accommodate the visitors who throng thither. Hundreds were turned away during the last year, (1837) for want of accommodations; and such was the crowd at that time, that five gentlemen who insisted on stopping, willingly made their "down beds" on a billiard table!

These valuable waters and grounds are now owned by an incorporated company, under the title of the "Fauquier White Sulphur Spring". The real estate which, with the improvements and personal property, constitute the principal stock of the company, consists of about two thousand nine hundred and thirty-four acres of land, divided by the Rappahannock river into two parts, of about one thousand seven hundred and fifty acres on one side of the river, and about one thousand one hundred and eighty-four acres on the other. Nearly one-fourth of the whole are alluvial, low grounds, on the river and its tributaries. The whole land was, originally, of fine quality, though the upland had been a good deal worn by a long course of bad husbandry, before it came into the hands of its present proprietors. The alluvial land, however, is very productive, and may be improved to a higher degree of fertility.

The Fauquier White Sulphur Spring establishment consists of an elegant brick pavilion, which including the wings, is one hundred and eighty-eight feet in length by forty-four feet in width. It is four stories high. In the basement story is the dining room, one hundred and forty-four by thirty and capable of accommodating four hundred persons. The kitchen and servants' hall are on the same floor. The second story comprises a ball-room, one hundred feet by forty, ladies' drawing room, reading-room, office, &c. The two upper stories contain about seventy lodging-rooms. Across the street, and directly opposite the Pavilion, stands what is called the "new building", which is also built of brick, four stories high, one hundred and five feet long, and thirty wide. This building contains about seventy lodging-rooms. There are, also, about ninety cabins, or rooms, separate and distinct from the Pavilion and new building, together with very large and recently erected stables and sheds, capable of accommodating a very great number of horses and carriages.* Those visitors, who, from ill

* "Porte Crayon" says of the Fauquier Springs in 1853, "If the natural advantages of this watering place do not equal many of those found higher up in the mountains, it surpasses all others in the extent, elegance, and costliness of its improvements. The buildings, of brick covered with slate, form a semicircle, inclosing a handsome park. These grounds are ornamented with fountains, and enlivened by herds of fallow deer." (*Virginia Illustrated*, 1857, p. 266.)

health, or other causes, desire the quiet and comfort of their own homes, added to the healthful and balmy breeze that steals through the valley, obtain one of the neat cabins, which being arranged on the northern and southern sides of the square, and amid the serpentine and shady walks and playing fountains, contribute much towards making a somewhat distant southeast view of the premises picturesque, and beautiful.

The first impressions of the stranger on arriving here, especially if it be his first visit to a watering place in Virginia, cannot be otherwise than agreeable. The friendly shake of the hand, the true Virginia welcome, "right hearty" and sincere, which he receives from the principal manager, will cause him to feel that he is not a stranger in a strange land, but among those who are ready to participate and enjoy, in common with himself, all the comforts, pleasures and recreations of the valley of Fauquier. His name being entered at the office, and himself comfortably bestowed in one of the cosy rooms of Norfolk Place, or thereabouts, the visitor will be delighted, as he saunters about the premises, with the novelty, beauty, neatness, and regard to comfort, so apparent every where in the exterior arrangements. The elegant Pavilion, its spacious piazza and beautiful columns; the rows of neat one-story brick cabins, with their shady coverings; the grounds, too, so tastefully arranged, the green lawns, sequestered shades, broad walks, neat summer-houses, and cool fountains these, and more than these;

"The common air, the earth, the skies,
To him seem opening Paradise."

The Sulphur Spring, surmounted by a tasteful octagonal pavilion, and supplied with seats, is situated in a verdant valley, about one hundred and fifty yards from the dining hall. It is mostly visited at morning and evening, when it not unfrequently presents a scene of beauty, cheerfulness, and rational mirth, mingled with entertainment and instruction. According to analysis, the water is impregnated with sulphate of magnesia, phosphate of soda, and sulphurated hydrogen.

The temperature of the water is fifty-six degrees Fahrenheit, or ten and a half degrees Reaumur. It has a strong sulphuric smell, and the taste being not unlike the odour arising from the yolk of a hard boiled egg is not, perhaps at first very agreeable to the palate of a gourmande. With some reluctance, and, possibly, a few wry faces, two or three glasses may be drunk during the first day. This disagreeable taste, however, is soon changed to the most impatient longings; and even a strong appetite for the water, till anon, five or six tumblers full before breakfast, or twenty glasses during the day are not considered an immoderate dose. Having drunk freely of the water for about ten days, the system, if formerly considerably impaired, becomes sensibly renovated. The water operates purgatively and diuretically; the cuticular

pores being opened, perspiration (especially if the mercury stands at ninety degrees) flows easily and copiously. Report saith, that any gentleman having used the spring for three weeks, can, by rubbing his nose against a stone wall, immediately light his cigar thereat; or any lady or pretty miss, having staid the same time, can light her candle by the action of her fore-finger on a pine table, so fully impregnated with sulphur does the free drinker of these waters in a short time become! But this may be scandal.

It is said, and perhaps, correctly, that the waters of Fauquier are not as strong (the component parts being the same) as those in Greenbriar county. Consequently, they may not act so soon or so powerfully on the system as the latter. But compared, in other respects, with those waters, the Fauquier Springs are in deservedly high repute as an alterative, and the more gradual cure they generally effect. Indeed, they are considered by many to be for the invalid, the most desirable, safe, and efficacious mineral waters in the State. This opinion is corroborated by many well attested cases of their remedial and curative qualities. They have arrested alarming symptoms of lingering disease, and eradicated the most inveterate ills to which flesh is heir.

* * * * *

CHAPTER II

INTERNAL ECONOMY OF THE PLACE. THE VIRGINIA CHARACTER. ANTI-SLAVERY MOVEMENTS. SCENERY, ETC.

The terms of boarding at Fauquier are, per day, \$2.00, children and servants half price; per week \$10; per month \$35; for two months \$65; for the whole season, (about three months,) \$80.

The dimensions of the cabins are about fifteen feet square, and eight feet in height. As each cabin has a fire-place, a door and window in front and in the rear, they are easily ventilated, or rendered otherwise comfortable.

There are a large number of double cabins, so called, which, as access is had from one apartment to the other by means of a door in the partition wall, are very convenient and desirable for families or invalids, for whom they are more especially intended and reserved.

The breakfast hour is half past seven o'clock, dinner two o'clock, tea half past seven o'clock. The first bell rings half an hour previous to each meal.

It is only necessary to state, with reference to the quality and number of dishes, etc., provided for the table, that the caterer and supervisor of this department is Mr. Bronaugh, who, for nine months in the year, officiates in the same capacity at Gadsby's in Washington. He is in every respect fit and suitable for this important situation. Gentlemen in his address, attentive and prompt in the discharge of his duties, he

displays not a little of "the ruling passion," (a desire and determination to please and render comfortable, if possible, the most fastidious guest,) so characteristic of every one connected with the establishment. The table, under such a practised eye, is the very pattern of neatness. It is not, to be sure, embellished with the most costly and elegant china, the purest and heaviest silver plate, or the richest cut glass that could be purchased; but every desirable and delicate dish is abundantly, and in the best manner provided. Every thing in the way of arrangement and attention, progresses as quietly, as methodically as in a private family. It is not only apparent that there is "a place for every thing, and every thing in its place," but there is also a particular, designated seat at table, for every visitor. The name of every boarder, being written on a card, is placed on his or her plate at each meal. Consequently, however great the number of visitors, or however tardy your approach to the dining hall, the seat and plate intended for you are undisturbed. The cards, after meals are strung on a wire, as they lie, successively, on the table; hence, if you are one of a party, being seated in company on arrival, you remain together till departure. By this excellent arrangement, confusion is prevented, and sociability, ease and comfort are promoted.

Besides the attractions of this place, which I have attempted partially to describe in these communications, the associations connected with the spot are hallowed by recollection, that some of Virginia's noblest sons were wont to drink at the crystal pool, to inhale the invigorating breeze, to mingle in the scenes, and to admire the landscape of Fauquier. It has occurred to me, as I have walked beneath these shades, and in these pleasant paths, from which the rains and dews have scarcely removed the imprint of the footsteps of Monroe and Marshall, that it would be an easy matter to erect on this spot, by the voluntary subscription of visitors, a cenotaph to the memory of these illustrious men! The cabins, which they once occupied are still standing on the beautiful lawn bordering the main avenue from the Pavilion to the Spring. The venerable Marshall, it is said was much benefitted in health by the waters of Fauquier, and repeatedly offered his certificate of the fact to the proprietor of the establishment. Visitors from the North, the South, the East and the West, would no doubt, willingly unite in the accomplishment of such an object as this. What could be more appropriate than such a tribute to wisdom, patriotism, and philanthropy: such a memento to mark the spot where those and other kindred virtues were so characteristically personified, as in the lives and conversations of these men? I would not have it inferred, from this suggestion, that Monroe or Marshall ever can be forgotten. Far from it. The storied urn, or animated bust, may never rise on these grounds, or elsewhere, to the memory of those whose deaths were commemorated by anthem and by eulogy. The recollection, however, of their names, their virtues

and their deeds, will be ever sacred, fresh and green in the hearts of their countrymen.

There is something altogether *sui generis* in the character and bearing of a true Virginia gentleman. Neat and unostentatious in his appearance, courteous, not fawning, in his address and manners, he seeks not to prepossess himself in your esteem by outward and unmeaning show. There is no cant, no disingenuity or hypocrisy in his character. Frank and ingenuous in the expression of his sentiments, if he give unintentional offence, he is ever desirous to seek immediate forgiveness. Find him where you may, at home, abroad, or in the valley of his own mountains, his casual acquaintance may unexpectedly prove to you, in health, the kindest friendship, and in sickness, the most watchful and affectionate sympathy. Virginia! the land that gave birth to Washington, Henry and Marshall! The land, emphatically of open hands, open hearts, and open doors! In which, exalted patriotism, generous hospitality, social intercourse, and the proper appreciation of the rational enjoyments of life are the characterizing traits of a brave, manly, and ingenuous population.

Much error of opinion, prejudice and falsity of doctrine, as I opine, exist unfortunately in the North on the momentous subject of slavery at the South. To understand and properly appreciate the character and effects of the domestic institutions of this part of the country, they must be seen, associated with, and examined; and when universally and unreservedly seen and understood, the abolition excitement will cease, and will become, at once and forever, extinct, and its highly wrought tales, its imagined evils and horrors, remembered only as stories for children, the mere bugbears of the nursery.

But pardon this digression. After a residence of some days at these Springs, the society and recreations lose, with some visitors, somewhat of their attraction and novelty, and become, to a limited extent, stale and uninviting. Other scenes and objects, as they give rise to new sensations and fresh trains of thought, are desired and eagerly sought. A walk or ride in the neighborhood, possessing as it does, scenes of peculiar loveliness and beauty, may afford those who admire whatever in nature partakes of the grand and beautiful the highest degree of satisfaction and delight.

Who, familiar with the topography of Fauquier, does not delight, in the cool quietude of morning, to cross the Rappahannock by the foot-bridge that overhangs its waters? Or, at sunset, when the last beams of day linger on the sky, and a soft, mellow, golden light is thrown over hill and dale, on tree and flower, and all things living and inanimate? Then, with the buoyancy and frolicsomeness of childhood, to roam in the fields and forests near the river, beneath the lofty trees, the bushes and vines that border upon and beautify its waters!

The Rappahannock, though sometimes impeded in its course by copse-wood, winds its way gracefully and quietly to the ocean; now over-

shadowed by towering oaks, pines, and sycamores, and now presenting its glassy mirror to the sky. Fertilizing and beautifying as it does its own native valley, occasionally it peeps out upon you from behind some bold and green bank, as modestly and as fascinatingly as one of those lovely Virginia maidens from beneath her flowing veil.

To some the northern bank of the river may be more attractive. Singularly wild, beautiful and enchanting is its scenery.

. "The rural walks,

O'er hills, through valleys, and by the river' brink,"
are shaded almost continuously, by a thick covert of lofty and spreading trees. At one moment, the path runs meanderingly near the river; anon, it steals away to green pastures and cultivated grounds, or coquettishly leads beneath the shade of melancholy boughs, where the forest trees, waving their tops, and rustling their green leaves, seem, as it were to invite one to repose on the moss, and odoriferous turf, beneath their clean and far-spreading branches.

Nature has indeed done much, and art but little to render the scenes alluded to truly beautiful. There are views that would captivate the landscape-loving eye of Fisher and Doughty; but they are, nevertheless to the majority of visitors, and I know not why, almost entirely unknown. When the forests shall be cleared of underbrush, wider and more level paths laid out, and seats erected, Fauquier will offer the visitor such a succession of walks, as will equal, if not rival, those which delight the New Yorker at far-famed Hoboken, the Bostonian at Brookline, or the Philadelphian at Fair Mount. Those who seek this favoured spot from enfeebled health, require, as they find themselves rapidly advancing to convalescence, no great effort of imagination, to fancy it more lovely and enchanting than the fabled charms of the valley of Rasselas. Renewed as they are in the outward, and possibly in "the inward man," society has for them renewed and increased attractions and delights. And, as they retire from these lovely, and much endeared scenes, "casting many a longing, lingering look behind," to mingle again with their kindred, their thoughts often wander back to the Springs of Fauquier, as to an old and cherished friend.

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CHAPTER III

THE SPRING'S FILLING. MORE VISITERS. AN INVITATION, ETC.

We have, at this present writing, upwards of six hundred visitors at Fauquier. Every carriage and stage coach comes full of passengers. There are five arrivals at least, to one departure. Not less than three hundred and fifty visitors have arrived within three days! Every stage coach from Washington to Fauquier is engaged, as I am credibly informed, for the next week. Large parties from the northern cities are expected in addition to those now here from that quarter. Letters, requesting the retention of cabins or rooms, come by every mail. At

this rate seats at table will soon command a premium. The company will soon be too numerous for the chairs. A pallet of straw may soon satisfy the belle, a blanket, settee, or even a newspaper, the beau, as a place of repose.

Health and disease, fashion and ungenuity, beauty and ugliness, old maids and maidens, little girls, boys, and stripling youths, fathers and grandmothers, the "lately engaged", and the "newly married", widows and widowers, lawyers, divines, doctors, quack-dentists, writing-masters, artists and horse-jockies, merchants, students, clerks, and fops, are each represented at Fauquier.

"The languid eye, the cheek
Deserted of its bloom",

dyspepsia, gout, consumption, rheumatism, in short, almost every disease and affection enumerated in the long list of human ills, come and drink, one and all, with the same positive and negative hopes and fears of benefit or cure.

* * * * *

Nor does he drink the sulphur water, except to quench thirst, in the middle of the day; it is his practice to drink, in bed, two or three glasses, brought by the servant soon after daylight, when he enjoys a refreshing and delightful slumber of one or two hours. His morning and evening meal consists of black tea, bread and butter. After breakfast he walks, if he can, to the spring; drinks, in the course of half an hour or so, four or five glasses of water; takes moderate exercise, walks, rides, plays at quoits, or makes one in "a match game" among the highly respectable company that frequent the ten-pin alley. At noon, on clear and warm days, he takes a sulphur bath, at one hundred degrees, returns, soon afterward, to his cabin, and takes "a nap". At dinner he confines himself to boiled rice, tomatoes, and other vegetables, a delicate slice of roasted mutton or beef; observing this rule, however, not to drink wine, nor to eat pastry, puddings, or desert of any kind, fruit only excepted. At about sundown he drinks three or four glasses of water, avoids exposure to the evening air; and thus day after day, he continues to do.

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CHAPTER VI

STILL MORE NEW COMERS. THE SCENES AROUND FAUQUIER. SPECULATIONS, ETC.

The accommodations for visitors at this watering place, though hitherto considered abundantly ample and extensive, will be found, no doubt, in the course of a few days, entirely too limited for the reception of the company that will arrive. The manager has relinquished his private apartments, and the ladies' drawing-room is filled with cots for the convenience of visitors. Elegant private establishments, parties of gentlemen on horseback, and extra stages, are continually arriving.

The number of visitors at this time exceeds five hundred. There were ninety-seven arrivals yesterday, and about one hundred and fifty on the two previous days. The Saloons and Halls, the Piazza, the public walks and rides, alike resound with the interesting hum and buzz of an intelligent, agreeable and fashionable company. Meanwhile, every thing progresses quietly and methodically. The business arrangements of the place are admirable. Order and neatness are the standing immutable laws, and their enforcement is exhibited in every particular. The neatness and excellence of the table, the superiority of the culinary department, alike attract the notice and receive the commendation of every visiter. A disposition on the part of every individual, to contribute to the general happiness, is manifested by a general participation and enjoyment of the recreations and pleasures of the place. Thanks to the gentlemen connected with the establishment, we are all contented and happy.

The ladies, dear creatures! now at Fauquier, are distinguished and admired for their intelligence, modesty, gentility and beauty. Besides Virginia's most choice and beautiful flowers, (the rarest gems of beauty, from the counties of Henrico, Albemarle, Spottsylvania, Lancaster, Fauquier, and others, are here), also pretty misses, beautiful, fascinating, blooming girls from the cities of New York, Philadelphia, Baltimore, and Washington, together with the fair and lovely, the gay and interesting daughters of Carolina, Georgia, Mississippi, and Alabama. Those who desire greater attractions, more intelligence, beauty and moral worth, combined in any one company, must be allowed to seek them where they may. The saloons for dancing, the most spacious and elegant in Virginia, are nightly crowded. The sweet voices of the fair, the grace, ease, and fascinating manners of belles and beaux, with the rich and harmonious sounds of a Military Band, give, when seen and heard, unitedly, an irresistible charm and effect, to the mazes of the fashionable cotillion and waltz.

There are few scenes upon which I have gazed with so much delight and rapture, as that presented occasionally, at sunset, from the top of the Pavillion. Art indeed, has done but little for the enhancement of the prospect, but there Nature unfolds her beauties to the spectator, in many of her most fascinating and lovely forms. The undulating surface of the country, the pleasing alternation of hill and dale, with here and there a cleared and cultivated spot, dotted with a neat habitation, the rich and varied combination of pasture and woodland, perhaps I should say forests, extending for miles, hoary with the moss of centuries, and pasture sufficient "for the cattle on an hundred hills". And then, the long and majestic line of the Blue Ridge Mountains, bounding the western prospect, their conical and pyramidal shapes, assuming a deeper and deeper azure tint as evening approaches. The clouds, too, that linger in the horizon, or that hang in the zenith, arrayed in the most gorgeous and transparent colouring, with occasionally,

a speck of pure cerulean sky, peeping out, in beautiful relief, from a canopy where purple, orange, crimson and golden tints are so sweetly and wonderfully intermingled. How rapturous would have been the sensations of Claude, or Poussin, who painted as if their pencils were dipped in the rainbow, at seeing some of these autumnal sunsets!

If, perchance, you are in a poetical or philosophical mood, what a field is here presented for the indulgence of the profoundest thought, or the most lightsome flights of fancy! To think that the waves of the Atlantic now two hundred miles distant, have dashed in all their fury, on the sides of yon mountains! And that, if the ocean has gradually receded to its present boundary, or been transferred more speedily by some wonderful convulsion of nature, the subject is one equally curious and interesting to the inquiring mind. And then to believe, as we have many cogent reasons for believing, that, as the mighty waters have filled these vallies and covered these hill tops, so huge leviathans and monsters of the deep have perhaps sported, where now may be seen beautiful meadows or cultivated farms!

* * * * *

APPENDIX

The following facts, with regard to "The Fauquier Springs", at Warrenton, Va., have been kindly furnished the editor of this little volume by one of the directors.

The Fauquier White Sulphur Springs are owned by a company of individuals, chartered by the Commonwealth of Virginia, entitled the F. W. S. S. Company; the officers and agents of which are at present as follows:

Isham Keith, President.

John Baker,	}	Directors.
Robert Scott,		
Erasmus Helm,		
Robert E. Lee,		
Thomas Green,		
William McCoy,		

Daniel Ward, Superintendent.

John T. Bronaugh, Manager of the Dining Room.

Thomas Marshall Graham, Manager of the Lodging Department.

Many improvements, in addition to those of the two last years, which have been numerous and important, are in rapid progress, and the visitors, this season, will find them very far advanced. Among these, may be particularly mentioned the erection of elegant and commodious bathing establishments, complete in all their arrangements, and to be constantly supplied with the Sulphur Spring water, of any desired temperature. The architecture of this building is to be Gothic, and will form an additional ornament to the Springs.

W. H. F.

7-27-23,

MAP OF PAUQUET COUNTY

Scale: 1 inch = 1 mile

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